The Solicitors' Journal and Weekly Reporter.

(ESTABLISHED 1857.)

*** Notices to Subscribers and Contributors will be found on Page xii.

VOL. LXX. Saturday, May 22, 1926. No. 33

Current Topics.

Detention of a Company's Books.

THE QUESTION of the right to the custody of a company's books was incidentally raised in *Schooner's Association, Ltd.* v. *Soames & Wallet, Times*, 21st ult., on a motion before Mr. Justice ASTBURY for the delivery to the plaintiff company by the defendants of the register, minute books and account books of the company. Some of the books in question were, in fact, being detained by SOAMES (who were a firm of solicitors) on behalf of the Defendant, WALLET, the ex-manager of the plaintiff company, who claimed to exercise a lien thereon on account of certain moneys which were owing to him from the plaintiff company, WALLET himself having the remainder of the books in his own possession. One of the leading authorities on the right to the custody of a company's books appears to be the case of *In re The Anglo-Maltese Hydraulic Dock Co., Ltd.*, 1885, 54 L.J. Ch. 730, where it was held that the solicitor of a company was not entitled to a lien for costs on such books of the company as were required by the Articles or the Companies Acts to be kept at the registered office of the company. This case affirmed the earlier case of *Re The Capital Fire Insurance Association*, 24 Ch. D. 408, which laid down the further proposition, that in a winding up, a solicitor could not exercise a lien over such documents in his possession, where that would hinder the due prosecution of the winding up of the company (cf. also *Ex parte Pulbrook*, 1869, 4 Ch. 627). In *Schooner's Association, Ltd.*, v. *Soames and Wallet* the books of account were required by the Articles to be kept at the registered office of the company, and as far as the register and minute book was concerned, the company had been served with the usual notice to furnish the yearly list of members and other particulars required by s. 26 of the Companies Act, 1908, and for this purpose recourse to the books in question was necessary. The order, however, which was made by Mr. Justice ASTBURY in this case should be noted. Although he held that in the ordinary way an order for the delivery of the books would be made, yet in the circumstances, as there was a grave risk of the books being destroyed to prevent their production at the trial of a libel action which was pending, the learned judge ordered that the books in the possession of Messrs. SOAMES should not be delivered up, but should be retained by them on their giving an undertaking to allow the books to be inspected and such copies and extracts taken by the plaintiffs, and to do all other acts that were necessary, in order that the plaintiffs might be able to comply with the notice served on them by the Registrar. At the same time, the learned judge ordered the defendant WALLET to deliver up such of the books as were in his own possession, not to the plaintiffs, but to his solicitors, who were to give a similar undertaking to that given by Messrs. SOAMES.

Banker's Liability for Advice on Investments by Cashier.

WE HAD occasion to refer, *ante*, pp. 437, 438, to the legal position of a bank, in cases where negligent advice as to investments had been given by one of the managers, and we pointed out there that, although the House of Lords had intimated in *Banbury* v. *Bank of Montreal*, 1918, A.C. 626, that a bank might be liable in such circumstances, if it was shown that advising on investments was part of a bank's business, the House was nevertheless not satisfied in that case that there was sufficient evidence as to this. It would seem, however, that sufficient evidence could be adduced if the question arose again, to prove that advice on investments was in general part of the business of a bank.

Even on the assumption that advising on investments is, in general, part of the business of a bank, it does not follow that a bank can be made liable for such advice given by any and every employee of the bank. It would appear, however, that the authority to advise on investments is to be regarded in general as being vested in the manager, whether he be the general manager of the bank or merely the manager of a local branch. Different considerations would of course apply if it was proved that in any given case the bank had held out any other employee as being authorized to give such advice, and in such a case the bank might be made liable for negligence by such employee in giving such advice. There has recently been a case before the Court of

Appeal, in which a customer of a bank sought to make the bank liable for negligent advice as to investments, given by a cashier of the Bank: *Dumicliffe* v. *Johnson & Ors., The Times*, 21st. ult. In that case the Court of Appeal held that the bank could not be made liable, since there was no evidence that the employee who gave the advice was anything more than a cashier, or that he had any authority to make the statements in question. This case is therefore authority for the proposition, that in the absence of express authority, a cashier of a bank has no authority to advise a customer as to investments, and that where such advice is given, the cashier would be considered as acting beyond the sphere of his employment, as far as the bank itself is concerned, although the cashier in such a case may be made *personally* liable to the customer for his negligent advice. In *Dumicliffe* v. *Johnson* the cashier was in fact found by the jury to have been negligent in the advice that was given by him, and judgment was entered against him, but the trial judge and the Court of Appeal refused to burden the bank with the liability which its employee had taken upon his own shoulders.

Landlord's Liability for Repairs under Housing, Town Planning, &c., Acts.

In the case of *Fisher* v. *Walters*, not yet reported, which was before the Divisional Court on 6th May, there was considered the extent of the landlord's obligation to repair in the case of a house to which the provisions of the Housing, Town Planning, &c., Act, 1909, which are substantially reproduced in the Housing Act, 1925, apply. Sections 14 and 15 of the Act of 1909 require that in the case of such a house, other than one let for a term of not less than three years, it must be at the commencement of the letting and be kept by the landlord during the tenancy, in all respects, reasonably fit for human habitation. Does this mean that as regards repair the landlord is an insurer, or does it mean that the landlord is in the same position as he would be if he had by the tenancy agreement undertaken to do the repairs? In the latter case he would be liable only after having received notice of non-repair. The non-repair in the case before the court was due to a latent defect in the ceiling, and, being latent, the tenant could not, and in fact did not, give notice of it to the landlord. The Court (MacKinnon and Finlay, JJ.) held that the absence of notice in such a case did not absolve the landlord from liability. One of the judges seemed rather to treat liability as arising not on the ground that the Act makes the landlord an insurer, but on the ground that as under the Act he has a right to enter and view the condition of the demised premises, he is thus put upon notice of any defect, thus distinguishing the case from *Hugall* v. *McKean*, 33 W.R. 588, where it was held that means of knowledge is not equivalent to actual knowledge, but where it appeared that the landlord had no right of entry. The reason thus given for holding the landlord liable under the Act would seem logically to apply whether the defect is patent or latent, but the same judge guarded himself from deciding that in the case of a patent defect the tenant could recover if he failed to give notice to the landlord. Perhaps the safer opinion is that there is nothing in the Act which makes notice to the landlord a condition of liability.

A New Medical Practice Act for New York.

We observe from "The Journal of The American Medical Association" that the House of Delegates at Dallas have unanimously passed a resolution urging the Governor of New York to approve the Medical Practice Act just passed by the Legislature. The Act, which had the support of the Medical Society of the State of New York, requires every physician to register annually on or before the 1st January, the licensing body (the Board of Regents) being authorized to appoint inspectors to enforce the law throughout the State. A "committee of grievances" is to be appointed by the Board, which may hear all charges against licensed practitioners, reporting its findings and recommendations to the Board, which may accept or modify the same. In all cases, however, any medical practitioner dissatisfied with the way in which he is treated by the Association may appeal to the courts. With the unfortunate case of the late Dr. Axham fresh in the public mind we think that Parliament would do well to consider whether some similar statutory provision has not, in the public interest, become necessary in this country.

The Law of "Cut-over."

The incident of the Northampton cricket captain making a terrible slog into a road, and smashing a wind-screen on his own car, but, fortunately, without injuring two ladies sitting therein, will no doubt end to the satisfaction of the local garage proprietor and the gratitude of the other parties concerned at a very narrow escape. The local lawyer, however, might perhaps have been better pleased if someone else's car had been damaged or even one or both of the passengers had been hurt—though, if a humane man, not too severely.

The law as to the skied cricket-ball or sliced golf-ball may obviously become of great importance to any wayfarer in these days, and even a lawn tennis ball bonneting a chauffeur might cause an accident, or a football bounding on a road frighten a horse with the same result. How, then, would such a situation be regarded in the courts? The case which will naturally occur to most readers is the recent one of *Castle* v. *St. Augustine's Links Ltd.*, 1922, 38 T.L.R. 615, where a sliced golf-ball struck the wind-screen of a taxicab, with the unlucky result that a piece of broken glass shot into one of the driver's eyes and destroyed it. In the man's action against the club and the golfer, Sankey, J., found (1) that the hole was so near the road, and sliced shots were so dangerous to wayfarers, that it was a public nuisance; and (2) that the golfer could have seen the approach of the vehicle, and was negligent in driving without ascertaining that the road was free. On such findings, damages of course followed. Obviously, however, a cricketer cannot time his strokes like a golfer, and even if he could, he might conceivably hit someone the other side of a wall, and therefore invisible to him. Given then a cricket pitch which is not so unsafe as to be a public nuisance, and a swipe by a cricketer vigilant in his game, and not guilty of legal negligence—who must pay for the sticking-plaster on the yokel's broken head, and his doctor's bill? The nearest answer in our own reports is *Stanley* v. *Powell*, 1891, 1 Q.B. 86, the headnote to which states "a trespass to the person is not actionable, if it be neither intentional, nor the result of negligence." There the defendant, a sportsman, had shot at a pheasant, and a pellet, ricochetting from the branch of a tree, struck the eye of the plaintiff, who was carrying cartridges for the party. The undeflected pellets killed the bird, and the jury found there was no negligence. Mr. Justice Denman, in the circumstances, held that the defendant was not liable for what was a pure accident. He had, however, some difficulty with a year-book case, 21 Henry VII, 23a, "where one shot an arrow at a mark which glanced from it and struck another, it was holden to be trespass." *Stanley* v. *Powell*, *supra*, however, is against the current of American decisions, and may be regarded as of doubtful authority. Mr. Beven at least leaves no doubt as to his opinion of it, see "Negligence" 3rd ed., pp. 569, 570. "It would be a useless labour to follow the judgment through its confused and inaccurate review of the cases—if correct, the law of England is that a man must in all circumstances be on the alert to avoid receiving injury—that the law of England is not so must be apparent to every student of Blackburn, J's judgment in *Fletcher* v. *Rylands*, 1886, L.R. 1 Ex. 265, at p. 277" (also L.R. 3 H.L. 330). As a matter of abstract justice, the law of Henry VII and Mr. Beven will probably be preferred to that expounded by the learned Victorian judge.

Law of Property (Amendment) Bill.

QUITE a number of amendments have been introduced into the Law of Property (Amendment) Bill during the committee stage in the House of Commons. It is the object of this article to state and explain these amendments, and to suggest where necessary the reasons for their adoption. It may be noted that a discussion of the Bill as first introduced in the House of Lords is contained in "A Conveyancer's Diary," pp. 478 9, 497 and 519, *supra*.

1. Clause 1 (1) of the Bill was amended so as to read as follows: "Nothing in the S.L.A., 1925, shall prevent a person *on whom the powers of a tenant for life are conferred by para.* (ix) *of sub-s.* (1) *of s.* 20 *of that Act from conveying or creating* a legal estate subject to a prior interest as if the land had not been settled land." The words in italics are substituted for the words "in whom a legal estate in land is vested in possession either absolutely and beneficially or upon trust for sale, subject to any prior interest, from conveying or creating a legal estate subject to such . . ."

It will be remembered that under the S.L.A., 1925, s. 1 (1) (v), the subsistence of a family charge is alone sufficient to create a "settlement," with the result that an absolute owner or trustees for sale subject to a family charge can not make title till a vesting deed has been made: *ib.* s. 13.

The effect of clause 1 (1) as amended will be to authorise an absolute owner to make a title to a purchaser or a mortgagee *subject to a family charge* without a vesting deed, and to give a receipt for the proceeds of sale or mortgage money. There will, therefore, be no need for payment to S.L.A. trustees. The amendment deals only with the case of an absolute owner subject to a family charge. As to trustees for sale holding subject to a family charge, see *infra*.

2. The proviso proposed by clause 2 to be introduced to s. 140 (2) of the L.P.A., 1925, has been amended to read as follows: Provided that where the land demised is an agricultural holding within the meaning of the Agricultural Holdings Act, 1923, the tenant on whom notice to quit is served by the person entitled to a severed part of the reversion may, at any time within twenty-eight days of the service of such notice to quit, serve on the persons severally entitled to the severed parts of the reversion a notice in writing to the effect that he accepts the notice to quit as a notice to quit the entire holding given by the person so severally entitled, to take effect at the same time as the original notice; and the notice to quit shall have effect accordingly."

As has been already explained in THE SOLICITORS' JOURNAL, the object of this proviso is to save the right of the tenant to compensation under the Agricultural Holdings Act, 1923, against the owner of each part of the reversion.

The counter-notice which the tenant gives to determine the lease (presumably because it will have become impossible for him to farm the rest of the holding when notice to quit a part has been given) is thus to have the same effect as if it were given by the owner of the reversion of that part. In the clause as amended the operation of the proviso is not confined to the case of tenants from year to year. Further, the notice given by, say, a purchaser of a part of a holding must, for the purposes of the Agricultural Holdings Act, be taken as if it had been given by the vendor as well, for the vendor by the sale has in effect authorised the purchaser to give the notice. And, finally, it is provided that both notices should expire together.

3. (*a*) It was agreed to enlarge the meaning of a "trust corporation" as amended by cl. 3 (1), so that "in relation to the property of a bankrupt and property subject to a deed of arrangement" a "trust corporation" would include "the trustee in bankruptcy and the trustee under the deed respectively." This will enable a sole trustee in bankruptcy and a trustee of a deed of arrangement to give receipts for capital money.

(*b*) Another amendment to cl. 3 (1) was passed with a view to make it clear that a corporation is not to be disqualified from acting as a trust corporation because expenses are deducted before its income is applied for charitable purposes. The position, therefore, in relation to charitable and ecclesiastical and public trusts is that the expression "trust corporation" includes any local or public authority holding an official position and prescribed by the Lord Chancellor, "and any other corporation constituted under the laws of the United Kingdom or any part thereof, which satisfies the Lord Chancellor that it undertakes the administration of any such trusts without remuneration, or that by its constitution it is required to apply the whole of its *net* income *after payment of outgoings* for charitable, ecclesiastical or public purposes, and is prohibited from distributing, directly or indirectly, any part thereof by way of profits amongst any of its members, and is authorised by him to act in relation to such trusts as a trust corporation." (The words italicised are new.)

4. (*a*) Clause 4 (1) of the Bill, it will be remembered, proposes to authorise an intended applicant for registration of a charge under the L.C.A., 1925, to give a "priority notice" in regard to the proposed registration. See *supra*, p. 497. Such notice is to be entered in the register. If the application for registration is presented within fourteen days thereafter and "refers in the prescribed manner to the notice, the registration shall take effect as *if the registration had been made at the time when the charge, instrument or matter was created, entered into, made or arose, and the date at which the registration so takes effect shall be deemed to be the date of registration; and where any two charges, instruments or matters are contemporaneous and one (whether or not protected by a priority notice) is subject to or dependent on the other, which is protected by a priority notice, the subsequent or dependent charge, instrument or matter shall be deemed to have been created, entered into or made, or to have arisen after the registration of the other.*" The effect of the words in italics which are substituted for the last part of para. (*b*) as it stood will be to make the date of creation of the charge, the date of effective registration and the date of actual registration be deemed to be the same. This is done in such a way that where there are contemporaneous transactions, they shall be deemed to have been entered into in the proper order.

(*b*) Sub-clause (2) has been entirely redrafted, but the object of the amendment is the same as the sub-clause which it replaces, namely to enable a purchaser to complete in safety within two days after he has obtained a certificate of search. Registration it will be remembered operates as notice; L.P.A. 1925, s. 198. It would have been impracticable to postpone the effect of registration except in favour of a purchaser who had searched. For this purpose all that is necessary is that the purchaser (which expression includes a mortgagee or lessee), should not be "affected" by reason of the registration, if he completes within two days from the date of the certificate. The reason for confining the protection to cases where a certificate of search is obtained seems to be that, under the rules, certificates will only be issued after the office is closed for registrations for the day. Hence they will speak up to and including the date which they bear. The public, of course, can search personally throughout the day, but in such a case, there is no guarantee that a private search will be made after the office is closed for registration. An official certificate of search has, therefore, its advantages. In fact a purchaser could not prove, without a certificate, that he had searched on any particular day or, if he could prove this, that the search was made after registration hours.

It may be instructive to set out the whole of sub-clause (2) as redrafted. It now reads as follows:—

> "(2) Where a purchaser has obtained an official certificate of the result of search, any entry which is made in the register after the date of the certificate and before the completion of the purchase, and is not made pursuant to a priority notice entered on the register before the certificate is issued, shall not, if the purchase is completed before the expiration of the second day after the date of the certificate, affect the purchaser."

(*To be continued.*)

Liability of Owners of Animals

IN THESE days when so many persons keep for their pleasure and/or profit animals and birds, it is desirable, as well as interesting, that the law governing the keeping of them should be widely known.

Ferocious animals and those that are in their nature wild, e.g., lions, tigers, elephants, monkeys, and the like, and animals known by their keepers to be ferocious, may be kept only at the risk of the person keeping them, and if they escape, whether through the keeper's carelessness or not, the keeper will be responsible for all the natural or direct consequences of their escape.

In *May* v. *Burdett*, 1846, 9 Q.B. 101, which was the case of a monkey biting a lady, the late Lord DENMAN, L.C.J., said: "Whoever keeps an animal accustomed to attack and bite mankind, with knowledge that it is so accustomed, is, *primâ facie*, liable in an action by any person attacked and injured by the animal without any averment of negligence or default in the securing or taking care of it. The gist of the action is the keeping the animal after knowledge of its mischievous propensities." The owner of an elephant, also, keeps it at his peril: *Filburn* v. *People's Palace Co.*, 1890, 25 Q.B.D. 258.

The owner of a domestic animal is only liable for damage (not being damage committed whilst trespassing) done by such animal if he either knows that the animal in question is accustomed to do damage of the kind complained of, or if he has been negligent in allowing the animal to do such damage.

In *Clinton* v. *J. Lyons & Co. Limited*, 1912, 3 K.B. 198, the plaintiff was bitten by a cat, which had kittens, while in the defendants' tea-shop, and, although it was proved that cats rearing kittens are inclined to be savage, and in a ferocious state, even if gentle otherwise, it was held that the defendants were not bound to contemplate the injuries as the consequence of keeping the cat.

In *Lowery* v. *Walker*, 1911, A.C. 10, a person in crossing a field on the way to a railway station was attacked, bitten and stamped on by a horse. The House of Lords held that he was entitled to recover damages from the owner of the horse, on the ground that the defendant knew the horse to be savage and that the public had been permitted to use the field.

In *Hinckes* v. *Harris*, 1921, 65 SOL. J. 781, it was decided that there is no presumption in law that a bull will attack a cow, and the plaintiff to succeed in an action based on such facts must prove negligence, and, if proved, it is no defence for the defendant to say he did not know the animal to have been in the habit of attacking cows. In this case a bull attacked a cow in an auction yard, the bull being in charge of the defendant's servants but otherwise not secured: compare *Manton* v. *Brocklebank*, 1923, 2 K.B. 212. *Primâ facie*, he who has control of animals is deemed to be their owner.

In an action for damages brought against the owner of a dog for biting a human being, the dog must be proved to be specially dangerous to mankind, to the knowledge of the owner; it is not sufficient to prove knowledge that the dog had previously attacked and bitten a goat. It is, however, a common error to suppose that you must prove that the dog has actually "bitten" someone previously: *Worth* v. *Gilling*, 1866, L.R., 2 C.P. 1. Knowledge of a servant having charge of his master's dog is the knowledge of the master, and complaint to the owner's wife, or barmaid on the premises, to be communicated to the owner, may be evidence of knowledge. If a dog is known by its master to have mischievous propensities the master is liable for damages if the dog has escaped through the act of his servant to whom he has entrusted the dog.

If any dog is proved to the magistrates to be dangerous to mankind or other animals—and it matters not whether the owner has knowledge thereof—and not kept under proper control the owner may be ordered to keep it under proper control or destroyed, or they may direct the dog to be kept or destroyed without giving the owner any option of keeping it under proper control. In *North* v. *Wood*, 1914, 1 K.B. 629, a bull terrier bit, with fatal effect, a Pomeranian dog belonging to the plaintiff, which, to the defendant's knowledge, had previously bitten another "Pom." dog. It, however, was held that the dog was under the control of his daughter, and not the defendant, and as she was a girl of seventeen and had arrived at the years of discretion, she, and not her father, was liable to pay the damages.

A man may keep a ferocious dog upon his own premises and, in reason, let it loose at night, for the protection of his premises. A strong case of necessity, however, must be made out. An isolated house in a lonely spot, e.g., near Dartmoor Convict Prison, would probably be held a justification for an exception to the rule that you must keep dangerous animals in restraint.

Where an owner of a dog knowing the animal to have a propensity for chasing and destroying game, permitted it to be at large, the consequence of which was that the dog entered the plaintiff's wood and chased young pheasants, which were being reared there under domestic hens, it was decided that he was liable for damages: *Read* v. *Edwards*, 1864, 17 C.B. (N.S.) 245.

What circumstances will justify shooting or injuring a dog? Whilst a dog that is trespassing and doing damage to property or to another animal may be seized by the owner of the property and distrained, *damage feasant*, it is only in exceptional cases that the owner has a right to shoot or injure the dog. Owners of franchises, warrens, or game preserves, may, *to save destruction of game*, shoot a dog. An owner of a free warren may, to protect a hare, shoot a dog *accustomed to hunt*.

A lord of a manor may, under the Game Act, 1831, appoint keepers to seize dogs and nets, and a dog legally seized may be destroyed. In *Moore* v. *Clarke*, 1898, 62 J.P. 522, damages were recovered for shooting dogs whilst coursing a hare on the defendant's land. For the defence it was urged that if the dogs were coursing the hare the defendant would be justified in shooting them, but the judge held that that was not good law.

It is an offence under the Protection of Animals Act, 1911, to shoot at and wound a trespassing dog. Unless it can be shown that the use of the gun was necessary in order to drive the dog away, there is no justification for the use of the gun: *Barnard* v. *Evans*, 1925, 2 K.B.D. 794.

A person is not obliged to keep a dog or cat from straying, unless the animal is—to the owner's knowledge—of a ferocious or mischievous disposition. The owner of a cat which destroys pigeons belonging to a neighbour is not liable therefor, in the absence of knowledge of the cat's mischievous propensities: *Buckle* v. *Holmes*, 1926, 70 SOL. J. 284, 464.

The police have power to detain and recover expenses of keeping a dog against an owner when found, and may even sell or destroy it on carrying out the prescribed regulations. Anyone finding a stray dog must, under penalty, notify the police thereof.

The owner of a dog is liable under the Dogs Act, 1906, and even if not negligent, or without knowledge of its mischievous propensities, for any injury done to cattle (horses, mules, asses, sheep, goats and swine) and although they may have been trespassing at the time. The dog may also be dealt with by the magistrates as a dangerous dog, and they may order it to be destroyed or kept under proper control.

Horses, cows, sheep, pigs and the like must be kept in from neighbouring lands, and the owner is liable if they stray thereon and do damage, but not if they stray through the neglect of the adjoining owner or occupier to carry out any contractual or prescriptive obligation to fence out such cattle.

Where a horse kicked a mare through the boundary fence it was held that, apart from any question of negligence, the owner of the horse was liable to the owner of the mare for an injury to the latter caused thereby: *Ellis* v. *Loftus Iron Co.* 1874. L.R. 10 C.P.10. And where a horse strayed into another field and kicked a mare it was held that the owner of the horse was liable: *Lee* v. *Riley* 1865, 18 C.B. (N.S.) 722.

On the other hand, an owner of cattle, not trespassing, has the right to sue the adjoining owner or occupier if he keeps anything near the boundary which is a nuisance or is injurious, per se: *Firth* v. *Bowling Iron Works Co*, 1878, 3 C.P.D. 245 (a case where the plaintiff's cow had swallowed a bit of rusty wire, which had fallen from the defendant's fence, and been poisoned by it) and *Crowhurst* v. *Amersham Burial Board*, 1878, 4 Ex. D. 5, where the plaintiff's horse had been poisoned by the eating of a yew tree which defendants had planted so near the boundary that it projected into the adjoining meadow of the plaintiff.

A sharp distinction is drawn between animals straying and doing damage on the highway, and those straying into neighbouring fields. The general right of the public on the highway is merely that of passing and re-passing; neither man nor his beast must be allowed to loiter thereon. Horses and cattle found straying on or lying about any highway may be impounded and the expenses, together with penalties may be recovered under the Highways Acts. Persons using the highway must put up with an occasional fright and personal injury through an animal belonging to an occupier of land adjoining or adjacent to the highway. In *Hadwell* v. *Righton*, 1907, 2 K.B. 345, the owner of a fowl, which, being frightened by a dog, flew into the spokes of a bicycle passing along a highway, was held not liable for the damage thereby occasioned. In *Tillett* v. *Ward*, L.R. 10 Q.B.D. 17, the facts were that two men were driving an ox to market through a town when it became unmanageable, and rushed into the open door of an ironmonger's shop and did damage. As there was no negligence on the part of the drovers, the owner was not liable for the damage. The court said that persons who have houses adjoining the highways take upon themselves the risk of inevitable accident arising from traffic on it.

In *Ellis* v. *Banyard*, 1912, 56 Sol. J. 139, the plaintiff was riding on a bicycle at night along a highway adjoining a field in which the defendant kept 100 cows. The field in question communicated by a gate with the highway and at the time when the plaintiff was passing, the gate was open and she saw some cows coming through it. A little further along were some other cows which had come from the field, some of which threw the plaintiff down and injured her. It was not proved that the defendant had left the gate open. It was decided that there was no evidence that the defendant, by any act of his own or of any breach of any duty owed by him to the public, had caused the damage.

In *Higgins* v. *Searle*, 1909, 25 T.L.R. 301, a sow strayed on the highway, a motor driver sounded his horn, the sow jumped up suddenly, frightened a horse which shied, and horse and van collided with a stone wall and the motor car was damaged. There was no negligence on the part of the owner of the sow in allowing it to stray on the road and the court held that he was not liable.

In *Jones* v. *Lee*, 1911, 28 T.L.R. 92, a young horse which had been placed in a field escaped on to the highway through a defective hedge. The plaintiffs, who were riding a tandem bicycle along the highway, on seeing the horse, slowed down, but the horse turned round suddenly and ran across the road coming into contact with the bicycle. The horse fell down and then jumped up, lashed out and damaged the bicycle and injured one of the plaintiffs. It was held that as the act of the horse was one which it was not in the ordinary nature of a horse to commit, and was not the natural consequence of the defendant's negligence in keeping a defective hedge, he was not liable.

If a dog has been stolen the owner must not publish an advertisement offering a reward for the return thereof and stating that no questions will be asked: *Mirams* v. "*Our Dogs*" *Publishing Co.*, 1901, 2. K.B. 561.

The owner of any dog or cat known to be infected with rabies must, under heavy penalties in default, immediately notify the police thereof, and steps must be taken by the owner to isolate the animal.

Fraudulent Transfer of Securities.

The case of *Eckstein* v. *Midland Bank, Ltd.*, *Times*, 23rd ult., which was tried before Mr. Justice Greer, affords an interesting illustration of the effect of fraudulent transfers of securities.

There a customer had deposited with his stockbroker for the purpose of sale a certain amount of Cape Electric Tramway debentures and Mexican Electric Tramway debentures. The Mexican debentures were a bearer security, but the Cape debentures had a form of transfer which the customer filled in in blank. The stockbroker, becoming subsequently embarrassed, wrongfully pledged the securities with the defendant bank, who, however, took them in good faith. The stockbroker subsequently became insolvent, whereupon the bank sold the securities.

With regard to the Mexican bearer debentures, the evidence showed that they were treated as negotiable instruments, and Mr. Justice Greer held that they were such and that a good title had passed. With regard to this part of the case, it might be as well to allude briefly to the opinion expressed before the cases of *Bechuanaland Exploration Co.* v. *London Trading Bank*, 1898, 2 Q.B. 658, and *Edelstein* v. *Schuber*, 1902, 2 K.B. 144, that, although a foreign instrument hitherto not held to be negotiable might be accepted as negotiable by an English court on proof of usage to that effect, the list of English negotiable instruments was a closed one, since the negotiability or otherwise of an English instrument must depend on whether or not it was held to be such under the "Antient Law Merchant," with the consequence, therefore, that no instrument could be made negotiable in law by proof of modern and recent usage to that effect, notwithstanding that such usage was universal. The law on this point, however, at present must be regarded as having been settled by the two cases above mentioned, and is to the effect that an English instrument will be treated as belonging to the class of negotiable instruments on proof of the existence of an usage and custom among merchants to that effect. The following passage from the judgment of Bigham, J., as he then was, in *Edelstein* v. *Schuber*, *supra*, at pp. 154, 155, is instructive: "It is no doubt true," said the learned judge, "that negotiability can only be attached to a contract by the law merchant or by a statute; and it is also true that, in determining whether a usage has become so well established as to be binding on the courts of law, the length of time during which the usage has existed is an important circumstance to take into consideration; but it is to be remembered that in these days usage is established much more quickly than it was in days gone by; more depends on the number of the transactions which help to create it than on the time over which the transactions are spread; and it is probably no exaggeration to say that nowadays there are more business transactions in an hour than there were in a week a century ago. Therefore, the comparatively recent origin of this class of securities, in my view, creates no difficulty in the way of holding that they are negotiable by virtue of the law merchant; they are dealt in as negotiable instruments in every minute of a working day and to the extent of many thousands of pounds. It is also to be remembered that the law merchant is not fixed and stereotyped; it has not yet

been arrested in its growth by being moulded into a code; it is, to use the words of COCKBURN, C.J., in *Goodwin* v. *Robarts*, L.R. 10 Ex. at p. 346, capable of being expanded and enlarged so as to meet the wants and requirements of trade in the varying circumstances of commerce . . ."

To deal now with the second class of securities, i.e., the Cape debentures in *Eckstein* v. *Midland Bank, Ltd.*, *supra*. These instruments were not negotiable, and the question that was raised in respect of them was whether the true owner was estopped from asserting that the transfer was invalid, inasmuch as he had authorized the brokers to sell, and had signed a blank transfer for that very purpose. In *Colonial Bank* v. *Cady*, 15 A.C. 267, certain certificates, which were not negotiable instruments, were sent by the executors of the deceased owner to their broker, for the purpose of being registered in their name. The executors signed, as executors, the transfers on the back of each certificate, without filling up the blanks. The broker fraudulently deposited the certificates with a bank, who took them *bonâ fide* and without notice, as security for advance. It was held, by the House of Lords, that inasmuch as the conduct of the executors in delivering the transfers was consistent either with an intention to sell the shares, or on the other hand, to have themselves registered as the owners thereof, the executors were not estopped from setting up their title as against the bank, the bank having been, in the circumstances, put on inquiry as to the authority of the broker. Lord HERSCHELL pointed out that a good title may be made to securities which had thus been fraudulently transferred, either if the security was a negotiable one, and had been taken *bona fide* and for value, or if the circumstances were such that the true owner thereof was estopped from setting up a claim against the transferee, *ib.*, at p. 283. What then will constitute such an estoppel? To ascertain this it is necessary to refer to Lord HERSCHELL'S judgment in that case, *ib.*, at p. 285, where the noble lord is reported as having said, "The mere delivery of them, i.e., the instruments, with the indorsed blank transfer and power of attorney signed, irrespective of any act or intent on the part of the owner of the shares, is not in itself sufficient to pass the title to them. If delivered by or with the authority of the owner with intent to transfer them, such delivery will suffice for the purpose. But if there has been no intent on the part of the owner to transfer them, a good title can only be obtained as against him if he has so acted as to preclude himself from setting up a claim to them. If the owner of a choose in action clothes a third party with the apparent ownership and right of disposition of it, he is estopped from asserting his title as against a person to whom such third party has disposed of it, and who received it in good faith and for value." The reason why in *Colonial Bank* v. *Cody*, no such estoppel was held to have arisen may be best expressed in the language of Lord HERSCHELL: "If in the present case," said the noble lord, *ib.*, at p. 285, "the transfer had been signed by the registered owner and delivered by him to the brokers, I should have come to the conclusion that the bank had obtained a good title as against him, and that he was estopped by his act from asserting any right to them. But this is not the case with which your lordships have to deal. The transfers in this case were not signed by the registered owner, . . . but by his executors . . . Under such circumstances, I do not think any one dealing with a broker in possession of such certificates has a right to assume that he has authority to complete a transfer of them; his possession is equally consistent with the absence of any such authority, and with his holding them merely for the purpose of procuring registration in the name of the executors."

The principles enunciated in *Colonial Bank* v. *Cody* were applied in the later case of *Fuller* v. *Glyn, Mills, Currie & Co.*, 1914, 2 K.B. 168. The plaintiff in that case had bought certain Canadian shares, which were registered in the name of one Harmsworth, the previous holder. Owing to the inconvenience of having the shares registered in his own name, the plaintiff, on the advice of his stockbrokers, left the share in this state, in the possession of the latter. Later, however, he was told by them that the shares had to be taken out of the name of Harmsworth, but he was persuaded by them not to have the shares registered in his own name, but in the names of other persons. This transfer, as the plaintiff was aware, could be effected without any act on the plaintiff's part. The brokers fraudulently deposited the certificates with the defendants as a security. It was held by PICKFORD, J., as he then was, that the plaintiff was estopped from setting up his title to the bank. The learned judge, after referring to *Colonial Bank* v. *Cody*, said that the point raised in the case before him had not been expressly decided, and that it was therefore necessary to examine the principle on which the rule of estoppel in such and similar cases was based. "In my view," said the learned judge (*ib.*, at p. 177), "it does not rest on the mere manual act of signature. That act is not an essential element in the estoppel. Its importance, where it exists, is as one step towards placing in the power and disposition of another an instrument which carries with it a representation of authority to that other person to deal with it, and which when produced to that third person will convey to that third person that such an authority exists. If that be the principle, I see no difference between the case where an owner signs and hands to a broker and leaves in his hands a document so signed, and the case where the holder of a document signed by the registered owner puts it into the hands of his broker, or the case (which is the case) where the true owner never having had possession of the document, but knowing it to be in such a condition that the broker can deal with it, allows it to remain in the broker's possession and thereby enables the broker to part with it to another who takes it on the faith of the apparent authority of the broker to deal with it."

In *Eckstein* v. *Midland Bank Ltd.*, Mr. Justice GREER, following the principle laid down in *Cody's Case* and *Fuller's Case*, held that the plaintiff was estopped from asserting his title to the Cape debenture since he had given the stockbroker authority to sell the securities and had clothed him with ostensible authority to transfer or otherwise deal with them.

The Legality of the General Strike.

NATIONAL SEAMEN'S AND FIREMEN'S UNION OF GREAT BRITAIN AND IRELAND *v.* McVEY AND OTHERS; THE SAME *v.* REED AND OTHERS.

INJUNCTIONS were sought in these two actions to restrain the officials of two branches of the plaintiff union, either in their official capacity or otherwise, from calling on members of the union to leave their employment without the authority of the executive council of the union, or contrary to the rules of the union.

In the first action the defendants consented to a perpetual injunction in the terms of the motion. In the second action the defendants appeared in person.

Mr. Justice ASTBURY said that the motion was made on two grounds: (1) that the defendants were acting in breach of the rules of the union; (2) that they were acting contrary to the common law. On the first point, under the rules, there could be no strike without the consent of two-thirds of the members voting in a ballot, and no ballot had been completed, so there could be, under the rules, no strike at present.

As to the second point, it was evident that the members of the union were in a position of doubt and difficulty. It was his duty to express his views of the general law, and the defendants wished that that should be done.

In his opinion the so-called general strike was illegal and contrary to law, and those inciting persons to it were not protected by the Trade Disputes Act, 1906. There was no dispute whatever alleged to exist, except in the case of the mining industry, and no trade dispute could exist between the General Council of the Trade Union Congress and the Government. The orders of the Council were, therefore, unlawful, and the defendants were acting illegally and ought to be restrained. Members of the union refusing to strike could not be deprived of their benefits. No member of the plaintiff union or of any other union could lose his benefits by refusing to obey illegal orders, and the orders of the Trade Union Council were illegal. The union was entitled to have this made known.

Members striking would not be entitled during the continuance of the strike to receive strike pay. The funds of a trade union were held in a fiduciary capacity, and could not legally be used for, or depleted by, paying strike pay to those strikers who obeyed illegal orders. The matter was beyond question. The defendants, in addition to defying the law, had broken the rules of their union. There must be an injunction until trial or further order in terms of the notice of motion. C.

A Conveyancer's Diary.

Sale of Mortgage Term: Vesting of Nominal Reversion.

In their letter which appeared in the correspondence columns of our last issue, Messrs. Mills & Best draw attention to a problem which is now not unfrequently met with in practice. The facts are not given in sufficient detail for an answer to be given decisively and without alternatives. It is, therefore, proposed to discuss the position generally.

The effect of our correspondents' question, as we read it, is this: Where there has been a mortgage of leaseholds by sub-demise and a subsequent assignment of the mortgage term, i.e., of the sub-lease, can the assignee assign the sub-lease, *plus* the leasehold reversion, i.e., the whole term comprised in the original lease?

We assume that the mortgage and assignment took place before 1st January last. The problem, then, relates to the vesting of a nominal reversion under the transitional provisions of the L.P.A., 1925.

There are two main alternatives to be considered:—

(*a*) Where the leasehold reversion was not, immediately before 1st January last, held in trust for the purchaser of the mortgage term.

In such a case there is, at the commencement of the L.P.A., 1925, in the absence of a special provision to that effect, no right in the mortgagee's assignee to require the legal estate represented by the leasehold reversion to be conveyed to or vested in him. Consequently the transitional provisions contained in the L.P.A., 1925, 1st Sched., Part II, do not apply, and the nominal reversion remains outstanding in the original mortgagor or his successors in title.

(*b*) Where the mortgagor declared himself a trustee of the leasehold reversion for a purchaser from the mortgagee.

In this case it might be argued that the assignee was entitled to call for a conveyance to him of the leasehold reversion and that para. 3 of Pt. II, *supra*, would operate to vest such reversion in him. Paragraph 7 (*a*), *ib.*, however, saved from vesting in a mortgagee of a term of years absolute any nominal leasehold reversion which was held in trust for him *subject to redemption*. As the law now stands, therefore, if the right of redemption still subsists, the leasehold reversion remains outstanding in the mortgagee, notwithstanding the transitional provisions of the Act.

In the case put by our correspondents, however, the right of redemption has gone, so, apparently, the nominal reversion is not saved by para 7, *supra*, from vesting, and may be said to be at the present moment vested in the assignee. Having regard to the amendment proposed in the new Amending Bill, which is to the effect that the words "or not" be added after "subject" in para. 7 (*a*), *supra*, and to the further fact that this amendment, if passed, will have retrospective effect, it seems best to treat the nominal reversion in all the instances considered as still outstanding in the original mortgagor. The assignee must, therefore, get this reversion in before he can assign the head term.

Receipts by a Sole Trustee of a Deed of Arrangement.

Section 14 (1) of the T.A., 1925, makes the receipt in writing of a trustee a sufficient discharge to the person paying money or transferring property to him. Sub-section (2) of s. 27 of the L.P.A., 1925, enacts that the proceeds of sale or other capital money arising under a disposition on trust for sale of land is not to be paid to or applied by the direction of fewer than two persons as trustees of the disposition except where the trustee is a trust corporation. The effect of this latter provision is saved from being affected by the T.A., 1925, s. 14 (1), *supra*, by *ib.* s-s. (2).

Now there seems to be current in some quarters a misapprehension as to the effect of the above provisions upon the power of a sole trustee of a deed of arrangement for the benefit of creditors to give a valid receipt. If land is held by such trustee on trust to sell for the benefit of creditors and the trustee is not a trust corporation (as to a definition of which see T.A., 1925, s. 68 (18), he cannot, acting solely, give a valid receipt for the proceeds of sale of such land. A sole trustee of a deed of arrangement is in no better position in this respect than any other sole trustee for sale of land.

It has, however, been appreciated that a certain amount of inconvenience may be involved by this rule, both in the case of a trustee in bankruptcy and in the case of a trustee of a deed of arrangement. Hence an amendment has been passed to the amending Bill now before the House of Commons which will have the effect of making a trustee in either of those cases a trust corporation, and therefore able to give a valid receipt of proceeds of sale.

Landlord and Tenant Notebook.

The Discretionary Character of Orders for Possession.

Mr. Justice Rowlatt in making an order for possession in a recent case, refused to allow the tenant more than a few days in which to vacate, and intimated that he would have given him no time at all, had the defence been merely a bogus and frivolous one. "I have no right," the learned judge is reported to have said, "to give away other people's rights. I could easily say: 'Take three months,' and go away quite happily in the thought that I had saved these poor people from turning out; but I should be doing so at the plaintiff's expense." Although there is great weight in the learned judge's remarks, and although staying execution in such cases is practically the equivalent of the giving away of other people's rights, it is nevertheless hardly conceivable that a court could adopt any such principle where possession of a house which was within the Rent Acts was being asked, and it is to be assumed that the case in which Mr. Justice Rowlatt gave expression to the above opinion was a case in which the Rent Acts did not apply at all.

As far as the granting of orders of possession of premises within the Rent Acts is concerned, the provisions of s. 4 (5) of the 1923 Act, replacing s. 5 of the earlier Act of 1920, clearly indicate that in every case a discretion is given to the court, whether in any given case an order should or should not be made on proof that the tenancy has been determined, and that the

circumstances bring one or more of the paragraphs to s. 4 (5) (1) of the 1923 Act into operation. It will be observed that the whole of s-s. (1) of s. 4 (5) of the 1923 Act is qualified by the words "and in any such case as aforesaid the court considers it reasonable to make such an order or give such a judgment." The discretion that is thereby given to the court is not, of course, an arbitrary one, and must be exercised judicially, but if it is shown that the trial judge had not taken extraneous and irrelevant matter into consideration, and that there was in fact material before him on which to exercise his discretion, whether it be in favour of the landlord or the tenant, an appellate court will not interfere with the order made by the judge, even though it would in all probability have exercised its discretion in an opposite manner, had it been acting as a court of original jurisdiction before whom the case had come in the first instance, cf. *Grandison* v. *Mackay*, 1919, 1 Sc.L.T. 95. Moreover if reference is made to s-s. 2 of 4 (5) of the 1923 Rent Act, it will be observed that the widest possible discretionary powers in this respect have been conferred on the court since, according to that sub-section, at the hearing of the action, or at any subsequent time before the order (if any) for possession has been executed, the court may "adjourn the application for possession, or stay or suspend execution on any such order or judgment, or postpone the date of possession for such period or periods as it thinks fit, and subject to such conditions (if any) in regard to payment by the tenant of arrears of rent, rent and mesne profits and otherwise as the court thinks fit"; and when such conditions have been complied with, the court may even discharge or rescind the order or judgment for possession previously made.

It will be seen therefore that the policy of the Legislature, as far as controlled houses are concerned, has been to invest the judge with the fullest and the widest possible discretionary powers in the making of orders for possession. Moreover these powers cannot be even abrogated or affected in any manner by any agreements made between the landlord and the tenant. A useful illustration of this is afforded by *Rossiter* v. *Langley*, 41 T.L.R. 304. In that case the landlord had brought an action for possession of certain premises falling within the Rent Acts but before the action was heard a consent order was drawn up between the parties, whereby the tenant agreed to judgment for possession to be given on a certain date. The tenant, however, later declined to abide by this agreement, and applied to the county court judge to exercise his discretion under the above provisions contained in s. 5 (2) of the Rent Act of 1920, and to postpone the date for possession. The county court judge considered that he had no further jurisdiction in the matter by reason of the consent order and refused the application without going into the merits of the case at all. On appeal, however, the Divisional Court held that the fact of the consent order having been entered into did not preclude the judge from entertaining subsequent applications under s. 5 (2) of the Act of 1920 (now, of course, s. 4 (5) (2) of the Act of 1923), and they accordingly remitted the case in order that the judge might exercise his discretion in the matter.

It is always open to a landlord and a tenant, subject to any restrictions that might be imposed by statute, to enter into any covenants they please. On the other hand, when they omit to do so, the law will only import certain definite covenants and agreements into the contract of tenancy, and it will be my object here to inquire into the nature of these "implied" covenants or "usual" covenants as they are sometimes called.

(To be continued.)

The Standing Committee of the House of Commons on the 6th inst. ordered the Weights and Measures Bill and the Bankruptcy Amendment Bill, both sent down by the Lords, to be reported to the House.

LAW OF PROPERTY ACTS.

Points in Practice.

Questions from Annual Subscribers are invited and will be answered by an eminent Conveyancer. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4. The name and address of the Subscriber must accompany all communications, which should be typewritten (or written) on one side of the paper only and be in triplicate. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post.

RENT CHARGE—APPORTIONED WITHOUT CONSENT OF OWNER—OWNER'S RIGHTS.

301. *Q.* Land subject to a perpetual rent-charge has been sold in two different lots, and the rent-charge apportioned between the two purchasers, each of whom entered into the usual covenant for payment and indemnity in respect of his moiety. The owner of the rent-charge now refuses to recognize the apportionment or to accept payment from the two purchasers, but insists on payment by the executors of the late owner. (The rent-charge was actually created in the conveyance to the late owner, and that deed contained the usual personal covenant for payment as well as the usual remedies for non-payment.) Admitting that the owner of the rent-charge has not been a party to the apportionment, can he refuse to accept payment direct from the purchasers?

A. The opinion is given here that the owner is entitled to entire payments as they fall due, but, so entitled, must accept them from anyone whom the original covenantor or his executors may nominate as agent for payment. Thus some friendly arrangement between the two purchasers and the executors seems indicated, perhaps with an authority to a bank. The editors of "Wolstenholme and Cherry's Conveyancing Statutes" appear to prefer sale by underlease in such circumstances: See Vol. I, p. 446. For sale by underlease, see *Re Judd and Poland's Contract*, 1906, 1 Ch. 684.

L.P.A., 1925, s. 2 (1)—CONVEYANCE OVER-REACHING EQUITABLE INTERESTS—INTERESTS OVER-REACHED.

302. *Q.* What precisely are the equitable interests and powers that can be over-reached by a conveyance under s. 2 (1) of the L.P.A., 1925? The section speaks of such a conveyance over-reaching any such interests or powers that are capable of being over-reached, but does not define what these consist of?

A. In an ordinary case in practice there should be no difficulty in ascertaining the operation of this sub-section, though to compile an exhaustive list of interests capable of being over-reached might take some space. As to s. 2 (1) (i) and the interests "capable of being over-reached thereby," see S.L.A., 1925, s. 72 (2), superseding s. 20 (2) of the S.L.A., 1882, with necessary adjustments. Section 2 (1) (ii) would operate to over-reach interests other than those excepted from defect by s. 2 (3), and see also s. 2 (5). As to sub-para. (iii) see s. 88 (1) (*a*) and (*b*), from which it would appear that the purchaser would take subject to equities registered under the L.C.A., 1925. Sub-paragraph (iv) preserves the rule that the interests of persons who are not parties to an action are not bound by orders made therein, unless O. 16 r. 8 or 9, applies to them in the way of representation. It must be read, however, in conjunction with s. 204, superseding s. 70 of the Conveyancing Act, 1881. See also *Hewson* v. *Shelley*, 1914, 2 Ch. 13, pp. 29 and 30.

DEVISE TO TWO—EXECUTORS' DUTY—WILL OF UNDIVIDED SHARE.

303. *Q.* (*a*) A made his will appointing B, C and D executors and trustees, and died in March, 1926. B has proved the will, power being reserved to C and D. A left all his property to his two sons, E and F. Part of A's estate consists of a

freehold farm. E and F do not wish to sell the farm, but to have same vested in them. We assume that the farm will vest in B as trustee upon trust to sell and convert. Can B as personal representative of A assent to the farm passing to E and F as trustees for themselves, or can B retire from the trust and appoint E and F trustees; failing this, what other course should be taken to vest the legal estate in E and F?

(*b*) E wishes to make a will leaving, *inter alia*, his share in the above farm to his wife for life. Should the devise be of the moiety of the proceeds of sale when sold, and until sale the income arising from such moiety?

A. (*a*) By s. 34 (3) of the L.P.A., 1925, B holds as trustee and executor upon the statutory trusts set forth in s. 35, but, unless sale is necessary for the purposes of administration, E and F may put an end to B's trust for sale by requiring him to convey to them under s. 23. If he does so they hold on trust for sale under s. 34 (2). The same result would no doubt be attained if B retired from the trust and appointed E and F to act. In either case when they have the legal estate they can postpone the sale as long as they please under s. 25, and manage or partition under s. 28.

(*b*) The form of devise suggested would no doubt be effective, but a simple devise of the testator's interest in the farm would be equally so, and more apposite if the brothers ever made partition.

TRUST FOR SALE—EXECUTORS' ALTERNATIVE POWER.

304. *Q.* A by his will in 1905, appointed his wife B, and his son and daughter, C and D, executors and trustees, they or the survivors or survivor of them or the executors or administrators of such survivor or other the trustees or trustee for the time being thereof being called "his said trustees" and, *inter alia*, devised and bequeathed his freehold and leasehold properties, subject to all incumbrances thereon, unto his said trustees, upon trust to manage same and pay net rents to B for life and then equally between C and D, and on death of such of C and D as should first die, testator directed his said trustees to sell. A died in 1908, and will was proved by all executors in 1910. B, C and D have since died, the last of them, D, dying in December, 1925. A sale was attempted after death of C, but proved abortive. By her will, D appointed E and F executors and trustees, and they proved in January, 1926, and have now effected a sale of the properties. In which of the following capacities ought E and F to convey?

(1) As personal representatives or trustees (by representation) of A? A's debts, etc. (except mortgage debts), have long since been paid. The mortgages will be discharged by statutory receipts prior to completion, but in fact out of the proceeds of sale.

(2) As trustees for sale? A's will contained merely a direction for sale.

(3) As trustees for purposes of S.L.A., 1925? There are no tenants for life, and the settlement apparently came to an end in December last.

(4) In any other capacity?

Will a vesting assent be necessary in any case?

A. A direction for sale is imperative and constitutes a trust for sale. E and F can exercise it under s. 18 (2) of the T.A., 1925. Under ss. 7 (1), 36 (8) and (12) of the A.E.A., 1925, they can also sell as executors of A. The present trusts of A's will are not disclosed, but, there being an overriding trust for sale, the property subject to them is not settled land (s. 63 of the S.L.A., 1882, not being re-enacted), within the S.L.A., 1925, so they could not sell as trustees under that Act. Their proper course is to sell under the trust for sale, but no doubt they will have regard to the requirements of the purchasers' advisers. In any case, a properly framed conveyance will recite the sale to be in pursuance of the chosen power, "and all other (if any) powers or power them in that behalf enabling," etc.

MORTGAGE—LEASEHOLDS—NOMINAL REVERSION—SALE BY MORTGAGEES.

305. *Q.* A leasehold property for 999 years was mortgaged by sub-demise. The mortgagee subsequently sold the property under power of sale, but did not assign to the purchaser the outstanding seven days of the sub-lease. The question now arising is, is the term a satisfied term under s. 116 of the L.P.A., 1925, and can the present assignee assign to the purchaser the original term of 999 years and ignore the sub-lease?

A. It is not stated whether the sale was before or after 1926, nor whether the original mortgagor declared a trust of the nominal reversion or otherwise. However, *Q.* 292, p. 631, and the answer to it deals with each case. The point as to a satisfied term is dealt with in the answer to *Q.* 188, p. 440.

SETTLED LAND—NO VESTING DEED—DEATH OF TENANT FOR LIFE—INFANT REVERSIONER.

306. *Q.* In 1919 C executed a deed of settlement conveying freeholds to D and E as trustees, to the use of C's mother during her life, and on her death to the use of his son *in fee simple*. The settlement trustees were by the settlement appointed trustees for the purposes of s. 42 of the Conveyancing and Law of Property Act, 1881, and also for the purposes of the Settled Land Acts. The mother died intestate in January last without any vesting deed under the 1925 Act having been made to her. She had no private estate and no grant of administration has been obtained. The son is an infant. Is it not now necessary for the trustees of the settlement to extract grant of administration in respect of the deceased mother, in order to pay estate duty, and then to execute a vesting assent in favour of themselves as trustees of the settlement? If so, and having done this, can they sell the freehold or any part thereof to raise the duty and expenses (there being no funds otherwise available)? Should they be able to sell for that or any other purpose, it is presumed they would do so as trustees, they apparently being "statutory owners" and having the powers of a tenant for life. Could any part of the purchase money be used for the infant's benefit?

A. On 1st January, 1926, by virtue of the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*c*), the legal estate vested in C's mother. In accordance with the S.L.A., 1925, 2nd Sched., para. 1 (2), the trustees (who are trustees for the purposes of the Act, see s. 30 (1) (ii)) should have executed a vesting deed in her favour, but, since they have failed to do so, para. 1 will not apply: see para. 1 (7). Administration limited to the settled property will be granted to the trustees, if willing to act: see Supreme Court of Judicature (Consolidation) Act, 1925, s. 162 (1) (*b*). As legal personal representatives they might sell to pay death duties, but their proper course will be to execute a vesting assent to themselves, subject to a charge by way of legal mortgage for death duties under the A.E.A., s. 36 (10) (see also S.L.A., 1925, s. 7 (1)). Whether before or after such vesting deed, they have full power to sell and receive the purchase money under s. 26 of the A.E.A., 1925, and to obtain and hand over to the purchaser, as no doubt he will require, the certificate as to death duties mentioned in s. 16 (7) of the L.P.A., 1925.

MORTGAGE BY DEPOSIT—PURCHASE FOR FROM MORTGAGOR.

307. *Q.* With reference to the answer to Q. 266, p. 581, this seems inconsistent with the views subsequently expressed in "A Conveyancer's Diary," on p. 598. Perhaps the matter could be dealt with again and the two statements be reconciled. Even prior to the 31st December, 1925, it was not uncommon for a bank's equitable memorandum of deposit to be abstracted and for the bank to give the purchaser an acknowledgment of his right to production of it as well as the usual letter stating that the bank had no lien on the land sold.

A. The practice mentioned in "A Conveyancer's Diary" is no doubt a safe one when dealing with the well-known great banking companies, but depends on the fact that they are solvent beyond all question, and that it is not their custom to charge or deal with their rights as depositees, so that therefore it is in the most extreme degree unlikely that anyone can or will repudiate the disclaiming letter. If banks were as liable to fall into difficulties as they were in the middle of last century it would no longer be so safe a course, for, on the face of such a letter, no consideration is given for the release. As to possible dealings with his security by a mortgagee by deposit, see *Ex parte Abel Smith*, 1842, 2 Mont. D. & De G. 587. See further the discussion following Messrs. Harding & Son's letter, *supra*, p. 633.

UNDIVIDED SHARES—L.P.A., 1925, 1ST SCHED., PT. IV, PARA. 1 (4) (iii).

308. *Q.* Immediately prior to the commencement of the L.P.A., 1925, A, B and C were each entitled in fee to an undivided third share in certain freehold property, A's share being subject to a mortgage. The entirety, therefore, became vested in the Public Trustee under L.P.A., 1st Sched., Pt. IV, 1 (4). The mortgage on A's share has since been paid off, and A, B and C have arranged to partition the property. It is conceived that, notwithstanding the mortgage having been paid off, the property having once become vested in the Public Trustee, it is necessary for A, B and C to appoint trustees for sale under L.P.A., 1st Sched., Pt. IV, 1 (4) (iii); and that such trustees will then convey to A, B and C individually the portions of the property to be taken by them respectively. In the answer to *Q.* 186, p. 440, it is suggested that A, B and C can appoint *themselves* under the T.A., 1925, s. 36 (1), which gives a power of appointing trustees in certain events. None of these events has happened. How, then, can A, B and C make an appointment under s. 36 (1), and if not, can they appoint *themselves* under L.P.A., 1st Sched. Pt. IV, 1 (4) (iii)? In any case should the appointment contain a declaration that the entirety shall vest in the appointees on trust for sale?

A. If the questioner will kindly refer to Mr. Paice's letter, p. 620, *ante*, and the footnote to it, he will find that his objection as to the relation of para. 1 (4) (iii), *supra*, to the T.A., 1925, s. 36 (1), has been forestalled and answered. The writer of these answers, however, wishes to express his appreciation of his critic's vigilance. As to the proposed vesting declaration, see s. 40 (1) of the Act, giving the choice between (*a*) express and (*b*) statutory declaration. In the absence of special circumstances, the latter would appear to suffice.

ANNUITY—YORKSHIRE PROPERTY SUBJECT TO—SALE OF

309. *Q.* In April, 1914 X sold certain freehold property in Yorkshire to A and B in fee simple (no further words used so, presumably, they took as joint tenants) the consideration being a certain sum as therein mentioned, and also a yearly rent-charge of £40 payable to the said X to be secured by a separate deed. By a deed of the same date this rent-charge was secured to X by A and B, charged upon the property, and registered at the Registry of Deeds at Wakefield. On the 1st January, 1926, by virtue of the S.L.A., 1925, s. 1 (1) (v), this latter deed became a settlement and, therefore, X became entitled to call for a vesting assent to be executed vesting the property in her as tenant for life. X, however, died on the 1st January 1926, and, apparently, under s. 3 of the S.L.A. the property then ceased to be settled land. In view of the death of the tenant for life and the fact that the vesting assent was not called for or executed (1) is anything further necessary beyond the proof of the death of the tenant for life to vest the property in A and B as absolute owners, or (2) are any further deed or deeds required under s. 7 (5) or s. 17 (1), or by any other section of the Acts, to so vest the property in A and B? As there is now no person entitled to call for an assent, A and B, by virtue of s. 3 of the Act, would seem to be absolute owners without any further instrument being executed, but s. 13 appears to complicate the matter somewhat.

If any such further deed or deeds are required what form should it or they take? In this case presumably trustees of the settlement will have to be appointed by the court to carry out the vesting of the property in A and B?

A. The questioners do not state whether the rent-charge was perpetual or for the life of X, but it is not agreed in either case that its creation brings the land within the S.L.A., 1925, for s. 1 (1) (v) relates only to charges "whether voluntary, or in consideration of marriage, or by way of family arrangement," and thus excludes the charge in question which was one for valuable consideration. If, therefore, it was for the life of X only, A and B, if they wish to sell, which they can do under s. 36 (1) of the L.P.A., 1925, will prove the death of X and payment of all arrears of the annuity, and on doing so will have a clear title. If the annuity was a perpetual one, the persons entitled to it under X's will or intestacy take a legal estate under s. 1 (1) (*b*) and A and B can only sell subject to it unless the chargee concurs and releases.

COPYHOLD—BARE TRUSTEE—UNDIVIDED SHARES.

310. *Q.* A, a solicitor, was in 1894 appointed a trustee, by a deed of declaration of trusts, of certain copyhold property, in trust to B for life and then to C for life, with remainder as she should appoint. Both B and C are dead. A is still on the copyhold court rolls. C by her will left this copyhold property to certain parties who are at present in receipt of the rents; one is a life tenant of a portion of the property. The steward of the manor before 1926 wished A to have the title completed by placing the surviving trustee under C's will on the court rolls, but A could not obtain the trustee's instructions for this to be done. A being a bare trustee, does the L.P.A., 1925, automatically vest the legal estate in such trustee of the said will, or what steps should A take to be relieved of the trust?

A. The land being copyhold on 31st December, 1925 the operation of the L.P.A., 1922, as amended by the L.P.A., 1924, takes place before that of the L.P.A., 1925, see s. 202 of the latter Act. The trusts under C's will are not fully recited, but from the abbreviated statement of them it would appear that certain beneficiaries held vested estates in possession in undivided shares. Therefore, whether under the 12th Sched. to the L.P.A., 1925, para. 8 (*a*), combined with proviso (iv) (as to whether this proviso is applicable, see answer to *Q.* 196, p. 461, *ante*), in conjunction with s. 10, and the 3rd Sched., para. 1 (1), or under the similar provisions in the L.P.A., 1925, 1st Sched., Pt. IV., para. 1 (1), A holds as trustee for sale, but another trustee must be appointed for an effective receipt for the proceeds of sale. If A wishes to retire he should do so and appoint two trustees to act. And when the trustees sell, s. 129 of the L.P.A., 1922, will operate unless the manorial incidents are previously extinguished.

PUISNE MORTGAGE—RECEIPT—STAMP.

311. *Q.* A client of ours is about to repay a third mortgage of a considerable amount, which mortgage was made in 1925. Prior to 1926 a receipt would have been sufficient to discharge the mortgage, and such receipt by virtue of *Firth & Sons* v. *I. R. Commissioners*, would not have required a stamp. L.P.A., 1925 converts the mortgage into a legal mortgage, and on payment off after 1925 the receipt would appear to require *ad valorem* stamp duty. Is this correct?

A. General assent may be given to the reasoning above if the mortgage in question was one within the operation of the L.P.A., 1925, 1st Sched., Pt. VII, para. 2, i.e., if it took the form of a conveyance to the mortgagee of the mortgagor's equitable estate in fee subject to redemption. In that case the puisne mortgagee's estate is converted from an equitable to a legal interest (as stated in para. 6), and s. 115 (5) applies to its discharge. If, however, the third mortgage was a

mere informal charge no equitable estate in fee was vested in the chargee, and para. 2 did not apply to convert his equitable charge into a legal interest. In such case therefore, the authority cited by the questioner would appear to be applicable.

PRE-1926 INTESTACY—HEIR AND WIDOW—TITLE—POST-1925 INTESTACY—WILLS ACT, s. 33.

312. *Q.* (1) A died in August 1925, intestate, possessed of real (£3,000) and personal (£1,300) estate, leaving a widow M and one son B (over twenty-one years). Administration was granted to the widow in October, 1925. The administratrix M has paid all debts and duties. What document is necessary to complete B the heir-at-law's title, and if so, should any mention of dower be made in it? (2) In the case above mentioned A's father Z has died in February, 1926, possessed of real and personal estate. He made a will leaving his property to his wife Y for life, and afterwards everything to his son A absolutely, and he appointed his wife Y and son A executors and trustees both of whom have predeceased him. Letters of administration with will annexed were granted in March, 1926, to M (the son's widow) as the personal representative of A. The property therefore passes as an accretion to A's estate. Is his widow M entitled to dower out of the real estate and absolutely entitled to one-third of the personalty, and what document is necessary to perfect B's title to this real property to which he succeeds from his grandfather?

A. (1) Before this year a legal personal representative might have given a parol assent to a devise or descent, but to make the best title the widow should, as her husband's administratrix, give a written assent under s.36 of the A.E.A., 1925, to the descent of his lands to the son, subject to dower. The view taken here is that dower is not a charge within s. 1 (1) (v) of the S.L.A., 1925, but that, the widow being entitled to an undivided third of the income, and the heir to an undivided two-thirds, they hold the land in undivided shares vested in possession. If then parol assent was given in 1925 the case came on 1st January, 1926, within the L.P.A., 1925, 1st Sched., Pt. IV., para. 1 (2), and the widow and son hold in trust for sale. If assent was not given until afterwards the widow held on trust for sale, under para 1 (1), but could not give a receipt. This trust for sale can be exercised if she appoints another trustee, preferably her son, to act with her, or they can in conjunction destroy it under s. 23 of the L.P.A., 1925, and agree to partition under s. 28 (3). (2) By the operation of s. 33 of the Wills Act, 1837, Z's realty devised to A accrues to A's estate as an additional asset or accretion to it, if and when M as Z's administratrix has assented to the devise under his will in accordance with s. 36 of the A.E.A., 1925. That should be an assent to herself as administratrix of A. In the circumstances the best course would appear to be for M to make this assent before she makes the assent to the descent of A's realty on intestacy, for then there could be no question that the latter assent operated on Z's realty comprised in A's estate, with the result stated above.

Correspondence.

The Legality of the General Strike.

Sir,—With reference to your article in last week's issue of THE SOLICITORS' JOURNAL, discoursing upon Sir John Simon's speech in the House of Commons on the legality of the general strike, you suggest that he has no authority for the sweeping statement made by him to the effect that all "trade union officials who incited breach of contract during the general strike were liable in damages to the uttermost farthing of their personal possessions," and then proceed to quote the Trades Disputes Act, 1906.

I should like to point out that Sir John Simon's whole speech was based on the fact that in this case the Trades Disputes Act does not apply, and that the trade union officials who called on the general strike were not entitled to the protection afforded them by the Act, since the general strike from which we have just emerged so successfully was not a "trade dispute" falling within the meaning of s. 5 (3) of the Act.

Clause 5 (3) of the Trades Disputes Act of 1906 defines a trade dispute as "any dispute between *employers and workmen or between workmen and workmen* . . . ."

I think you will now see that the general strike, which was a dispute between the T.U.C. and the Government (the T.U.C. served their ultimatum upon the Government) cannot possibly be a "trade dispute" within the meaning of the Act.

Since this speech of Sir John's was made in the House, it has been confirmed by a judgment of Mr. Justice Astbury's, in the High Court, which, I suggest, you report in your journal at an early date.

Caterham. J. ARNOLD CORBIN.
18th May.

[We are obliged to our correspondent for his interesting communication. It puts the case which members of the T.U.C. would have to answer admirably before our readers. It is, however, as will be noted, based upon an assumption of fact which has not yet been decided. As there is such a wide difference of opinion upon the question whether or not the erring conduct of the T.U.C. can reasonably be viewed as an act done in furtherance of the mining dispute, it seems better to leave the discussion in our columns as it stands with both sides clearly stated for the benefit of our readers.—ED., *Sol. J.*]

Extension of Powers.

Sir,—In THE SOLICITORS' JOURNAL of the 12th December last, in the report of Sir Benjamin Cherry's sixth lecture, on p. 200, under the heading of "Extension of Powers," the lecturer says that it is probable that in practice express provisions will be inserted in (*inter alia*) conveyances to partners and other persons who hold beneficially as joint tenants, authorizing their powers as trustees for sale to be exercised at their discretion, and without an order of the court, and that in some cases the power to raise money will likewise be extended, and we have seen elsewhere suggestions that powers, additional to the statutory powers, should be given to purchasers of the class above mentioned, in the case of conveyances to more than one purchaser.

Precedents Nos. II and III, on pp. 654 and 655, Vol. I, of the 22nd Edition of Prideaux's Precedents include only one special clause, No. 3, referring to the statutory powers, but we do not think that this covers all the points referred to in the above-mentioned lecture, and we suggest that it would be useful to the profession to have an opinion in THE SOLICITORS' JOURNAL as to the form of clause to be inserted, so as to give purchasers, who held beneficially as partners or otherwise, the fullest powers to mortgage and otherwise deal with their property in the same manner, as far as possible, as absolute owners have been accustomed to do previous to this year, *or* an opinion indicating the heads of such a clause.

It appears that a solicitor acting for purchasers of the above-mentioned class, who gave instructions that they were to have the fullest possible powers (as they would probably do), might be guilty of negligence if the conveyance was not drawn in accordance with such instructions.

London. C.
9th March.

[Clause 3 in Prideaux's I, p. 654, gives power to carry out almost any transaction imaginable because the S.L.A. powers are made exercisable by the trustees for sale without any order of the court. Under S.L.A., 1925, s. 64, the court can authorize a tenant for life to carry out any transaction which could have been effected by an absolute owner. It provides that the partners holding on trust for sale can, without going to the court, carry out any transaction which may be required for the purposes of the partnership.—ED., *Sol. J.*]

Landlord and Tenant Notebook.

Sir,—In your issue of the 21st November, 1925, there appeared an article which stated, *inter alia*, "that the statutory tenant cannot sub-let, it being immaterial whether the sub-letting is of the whole or only of part of the premises," and he quoted in support the case of *Keeves* v. *Dean*.

You were good enough on the 26th December to publish a letter from me, taking exception to the doctrine laid down, pointing out that the case cited was inapplicable and showing that under s. 4 (1) (*h*) of the Rent Restriction Act no order for possession could be made if the statutory tenant did sub-let part of the premises.

A note also appeared from "S" accusing me of "merely begging the question" and misconceiving the meaning of the section I had quoted, and repeated his assertion that *Keeves* v. *Dean* applied.

My reply to this note appeared in your issue of the 6th February, and I endeavoured by an explanation to show that my contention had been accurate and that "S" was wrong, and there the matter ended for the time.

In your current issue you report that case of *Campbell* v. *Lill*, which came before a Divisional Court composed of two Lords Justices, who reversed an order of the judge of the Wandsworth County Court for possession against a tenant who had sub-let part of the premises of which he was a statutory tenant. Lord Justice Bankes upheld, and Lord Justice Scrutton concurred, in the tenant's answer to the action, namely, that the landlord could only obtain a judgment or order for possession against him on one or more of the grounds contained in the Rent Restrictions Act, 1923, which justified an order for possession being made. He also held that *Keeves* v. *Dean* had no real application to the case.

As this judgment so entirely confirms the contention I put forward as showing that the statement of "S" was inaccurate, I trust you will do me the honour of publishing this letter.

London, 10th May. REGINALD G. DAVIS.

Sir,—I have had an opportunity of reading the above letter, and beg to differ from the views taken by your correspondent as to the effect of *Campbell* v. *Lill* (dealt with in the "Landlord and Tenant Notebook" for the issue of the 27th March, 1926). In *Campbell* v. *Lill* there was no question as to whether a statutory tenant has the right or the power to sub-let. All that that case decides appears to me to be merely this, viz., that no order for possession can be made against a statutory tenant by reason only of the fact that he has sub-let a *part* of the premises originally demised to him, at any rate where the statutory tenant continues in possession of the remainder of the premises. That case has nothing to do with the question whether a good title is conferred on the person to whom the part has been sub-let, as against the original landlord, i.e., the lessor of the sub-lessor, or whether the statutory tenant has the right or power to sub-let. As Bankes, L.J., said in *Campbell* v. *Lill*, "The Court was not considering what would be the position of the defendant if the landlord had brought the action against the sub-tenant." I have already commented on *Campbell* v. *Lill* and given my views thereon, and I do not wish to repeat what I have already said.

YOUR CONTRIBUTOR.

Mortgage by Sub-demise—Sale by Mortgagee.

Sir,—I suggest that the answer to Messrs. Mills & Best's letter of the 4th instant depends on whether there was a declaration of trust of the seven outstanding days. If there was not a declaration of trust, I believe that the present vendor can assign only what he has, namely, the mortgage term, and that no merger can take place. If there was a declaration of trust, then I believe the present vendor should assign the head term, the mortgage term having merged in the original term by reason of the operation of the Law of Property Act, 1925, First Schedule, Part II (para. 7 not applying, as there was no right or equity of redemption subsisting on the 31st December, 1925). I think that the Bill now before Parliament has some bearing on the subject of mortgage terms in cases where there was a declaration of trust, but I imagine that the amending Act will not affect anything done between the 31st December, 1925, and the date of its coming into operation.

I suggest that s. 116 of the Act does not apply unless the facts are such that a merger can take place.

London, 17th May. W. J. BLOOMFIELD HOWE.

[General agreement is expressed in "A Conveyancer's Diary," *supra*, with our correspondent's reasoning. But it seems that the Amending Act *will* affect things done between the 31st December, 1925, and the date of its coming into operation, for s. 7 of the Bill as it was introduced proposed that "the provisions of this Act except sections 4 and 5 shall be deemed to have come into operation on the first day of January, 1926."—ED. *Sol. J.*]

Reviews.

A Treatise on the Law and Practice relating to Infants. By ARCHIBALD H. SIMPSON, M.A. Fourth Edition by GEORGE W. KNOWLES, M.A. London: Sweet & Maxwell, Ltd. 1926. lxviii and 390 pp. £1 12s. 6d. net.

Since the appearance in 1908 of the third edition of this standard work on infants, several important judicial decisions and a number of statutes of far-reaching effect have made necessary and welcome the preparation of this new edition. As with all works relating to property or contract, the task of revising has been somewhat heavy. It has, however, we think, been accomplished, on the whole very satisfactorily. Attention may be drawn to one or two omissions in revising the case law. In dealing with an infant's liability in contract and attempts to make him liable in tort, no reference is made to the case of *Leslie* v. *Shiell*, 1914, 3 K.B. 607, in which the earlier case of *Stocks* v. *Wilson*, 1913, 2 K.B. 235, is explained. *Roberts* v. *Gray*, 1913, 1 K.B. 520, also might have been quoted, for it constitutes a good example of a contract of service enforceable against an infant. The effect of the various statutory provisions, in particular the new Property Acts and Guardianship of Infants Act, seems to have been admirably gauged, though perhaps too strict a retention of the words of the statutes makes these new parts somewhat less readable than the revised portions. The editor has, by his care and industry, succeeded in maintaining the high reputation of "Simpson on Infants."

The International Law of Jurisdiction in England and Scotland. By ANDREW DEWAR GIBBS, LL.B. Edinburgh: Wm. Hodge and Co., Ltd.; London: Sweet & Maxwell, Ltd. 1926. xxiv and 301 pp. £1 1s. net.

In the realm of Private International Law there are large fields which remain as yet unfamiliar alike to the general practitioner and to far too many students of law. Pioneers such as Dicey and Westlake have made invaluable surveys of these fields, but the realm itself is so extensive and so full of life that there is scope for constant exploration. Further, comparative studies in subjects in Private International Law—a province which openly invites such treatment—are on the whole few. Mr. Gibbs, therefore, in writing on International Law of Jurisdiction in England and Scotland, has traversed unfamiliar and difficult, but nevertheless interesting, ground. His work was written in accordance with

the conditions of the Faulds Fellowship in Law of the University of Glasgow. This does not imply that the treatment is merely academic. It is, in fact, pre-eminently a work for practitioners. It sets forth concisely the principles governing the subject of jurisdiction according to the laws of Scotland and England, and the citation of authorities in each system is so good that it is a work which will give great assistance to practitioners in England and Scotland. The criticisms, submissions and suggestions, however, which are judiciously made add academic flavour to the treatment and make the book most readable.

Cases on the Law of the Constitution. By BEROE A. BICKNELL. Oxford University Press. 1926. xiv and 215 pp. 7s. 6d. net.

This small book contains the facts and decisions in 112 of the leading cases on the Law of the Constitution. The facts are given clearly and the point of each case is very well brought out. Frequently, quotations from judgments are given. These add considerably to the value of the collection. The choice of cases is admirable, for authority is given for practically all the leading principles in English Constitutional Law. We think that the work will become extremely popular with candidates for examinations in Constitutional Law and History.

How to Own and Equip a House. Published by R. A. Bateman, Ltd., Kingsway House, Kingsway, London, W.C.2. 1926. 339 pp. 2s. 6d. net.

It is seldom that such a mass of information, legal and general, on a subject of such widespread interest is so well presented as is this guide to the ownership and equipment of a house. The first chapter of the book is taken up with the ever-recurring subject of "How to find the money." It contains a brief but clear statement of the way in which an intending owner may obtain assistance in the form of a loan or subsidy from the local authority. It describes the usual method and terms of obtaining loans from building societies or banks, and explains the scheme whereby life insurance may be combined with house purchase. The other chapters of the book are of general rather than of particular interest to lawyers. Such matters as "Buying a house already built," "Furnishing the house," "Furnishing with Antiques," "Making a garden," are charmingly dealt with. Plans and photographs add greatly to the value of the descriptions. This volume, so reasonably priced, would make a welcome addition to the lawyer's leisure library.

Harris's Criminal Law. Fourteenth Edition. By A. M. WILSHERE. Sweet & Maxwell. 520 pp. 12s. 6d.

The fact that this book has reached its fourteenth edition is sufficient evidence of its practical utility, and Mr. Wilshere's experience of the student's requirements is sufficient guarantee of the maintenance of that characteristic. There are one or two small points which we have been unable to find, either because they are not there or not where one would expect to find them, and we mention them by way of suggestion rather than criticism. In the section on Piracy we should expect a reference to the Treaties of Washington Act, 1922, which makes the violators of certain rules, particularly aimed at submarines, for the protection of neutrals and non-combatants in sea warfare liable to punishment as for acts of piracy at the hands of any state into whose hands they may fall, and removes the defence of the orders of a governmental superior. In the section on offences against the Government, the offence of "trading with the enemy" might be mentioned. N.

The Rating and Valuation Act, 1925, with an Introduction and Notes, and an Appendix of Enactments continuing in Force. E. M. KONSTAM, K.C. 268 pp., and index 23 pp. Butterworth & Co.: Shaw & Sons Limited. £1 7s. 6d.

This edition was prepared for the assistance of the new authorities and their officers, and also for the owners and occupiers of property and their professional advisers, and contains:—(i) an introduction designed as a concise summary of the leading points of the Act and of the principal changes that it makes; (ii) the Act itself, with notes; and (iii) an appendix of enactments (relating in the first instance to poor rate, county rate, general district rate, and so on), that will be applicable to the general and special rates made under the new Law. The drastic changes effected by the Act are not to come into operation until 1st April, 1927, but the intervening period is not too long for those concerned to prepare for their work or to become familiar with their new rights and obligations, and the book is therefore published at an opportune moment. It has been most carefully compiled and should prove invaluable to those whom it is designed to assist. H.

Books Received.

Law Courts, Lawyers and Litigants, 1926. FREDERICK PAYLER, pp. 241 (with Index). Methuen & Co. Ltd., Essex-street, W.C.2. 6s. net.

Report of the Forty-eighth Annual Meeting of the American Bar Association held at Detroit, Michigan, September, 1925. 1,350 pp. The Lord Baltimore Press, Baltimore.

The Annual Report of the Incorporated Society of Auctioneers and Landed Property Agents, 1925-6. JOHN STEVENSON, General Secretary, 26A, Finsbury-square, E.C.2.

Harris' Hints on Advocacy. Conduct of cases Civil and Criminal, Classes of Witnesses and Suggestions for Cross-examining them. By the late Sir RICHARD HARRIS, K.C. Sixteenth Edition. With an Introduction by His Honour Judge PARRY. 348 pp. (with Index). 1926. Stevens & Sons, Ltd., 119/120 Chancery-lane. 10s. net.

The Rating and Valuation Act, 1925, with an Introduction and Notes and an Appendix of Enactments continuing in Force. E. M. KONSTAM, K.C. 268 pp. and Index, 23 pp. Butterworth & Co., Bell-yard. 1926. 27s. 6d. net.

The Law Relating to Estate Duty with notes on Legacy, Succession and other Death Duties. JACKSON WOLFE, LL.D., Lincoln's Inn and DOUGLAS DEWAR, Inner Temple. 1926. 287 pp. with Index. Oxford University Press: Amen House, Warwick-square, E.C.4. 15s. net.

Coote's Common Form Practice and Tristram's Contentious Practice of the High Court of Justice in granting Probates and Administrations. Sixteenth Edition. A. FITZGERALD HART and C. T. A. WILKINSON (both of the Principal Probate Registry) and W. E. WILLAN (of the Estate Duty Office). 1926. 8vo., 1,073 pp. and Index, 68 pp.

The Rating and Valuation Act, 1925. Annotated, being a Supplement to "Lunley's Public Health." ALEXANDER MACMORRAN, K.C., and JOSHUA SCHOLEFIELD, K.C., assisted by A. H. PEACOCK, M.A., A.S.S.A. Butterworth & Co., Temple Bar. 1926. 8vo., 147 pp. and Index, 17 pp. 25s. net.

The Law relating to Friendly Societies and Industrial and Provident Societies. FRANK BADEN FULLER (Inner Temple). 1926. 8vo., 684 pp. 30s. net.

Rates and Rating embodying the Rating and Valuation Act, 1925. The Law of Practice of Rating for the Rating Official and the Ratepayer. ALBERT CREW (Grays Inn), assisted by W. T. CRESSWELL (Grays Inn), and ARTHUR HUNNINGS, F.S.I. Third Edition (re-written). 1926. 434 pp. (with Index). Sir Isaac Pitman & Sons, Ltd., Parker-street, Kingsway, W.C.2, Bath, Melbourne, Toronto, New York. 10s. 6d. net.

The Certified Accountant's Year Book, containing List of Members, Articles of Association, Standing Orders, Regulations as to Admission of Candidates to Examinations. Examination Papers, etc. 1926. 8vo., 521 pp. 2s. 6d. net.

Income Tax in relation to Local Authorities. F. OGDEN WHITELEY, O.B.E. (City Treasurer, Bradford), including Memoranda issued by the Council of the Institute of Municipal Treasurers and Accountants (Incorporated) in respect of allowances for Depreciation and Renewals; Trade Profits as "set off" against Interest on Loans, etc. Second Edition. 8vo., 239 pp. (with Index), 1926. Gee & Co. (Publishers), Ltd., 6, Kirby-street, E.C.1. 12s. net.

Secretarial Practice. The Manual of the Chartered Institute of Secretaries. Prepared by the Council of the Institute in conjunction with His Honour Judge SHEWELL COOPER. Third Edition (revised), 1926. 710 pp. W. Heffer & Sons, Ltd., Cambridge. 10s. net.

The Quarterly Review of the Licenses and General Insurance Company Limited. Vol. II, No. 1. Lady Day, 1926.

First Report of the Committee on Legal Aid for the Poor. 1926. 14 pp. His Majesty's Stationery Office. 3d. net.

Obituary.

MR. ROBERT SCHOLEFIELD.

Mr. Robert Scholefield, solicitor, Dublin, died suddenly on Saturday, the 3rd ult., at the age of seventy-eight, whilst on a holiday at Kingston. Admitted in 1881, he had practised for forty-five years, and was the senior partner in the well-known firm of Moore, Keily & Lloyd, solicitors, Molesworth-street. The firm had always been associated with the landed interests in Ireland, and Mr. Scholefield was a recognized authority on everything connected with the Irish Land Acts and the sale of estates under the Land Purchase Acts.

H.

SIR T. W. LEWIS.

The death occurred at his residence at Goring-on-Thames, on Wednesday, the 28th ult., of Sir Thomas William Lewis, who was Stipendiary Magistrate of Cardiff from 1887 to 1923.

Born on 10th December, 1852, at Merthyr Tydfil, he was the youngest son of the late Mr. Thomas Lewis, of that town, the youngest brother of the late Lord Merthyr and uncle of the present Lord Merthyr. On leaving school he proceeded to Caius College, Cambridge, where he won considerable fame as an athlete, rowing in his college and university boats, and becoming President of the University Boat Club. He was a well-known boxer, and on one occasion won the 'Varsity Lightweight Championship.

Called to the Bar by the Middle Temple in 1879, he joined the South Wales Circuit, and between 1880 and 1887 figured regularly at quarter sessions and the assizes in South Wales. He had also had a wide experience at the Parliamentary Bar, having been engaged in a large proportion of the Private Bill legislation affecting the southern part of the Principality.

Outside the magisterial courts at Cardiff, where the general public probably knew him best, Sir Thomas won a national reputation as one of the foremost authorities at shipping inquiries conducted by the Board of Trade, and was the senior holder of the post of President of the Wreck Inquiry Court of the United Kingdom.

When he retired, only three years ago, it was generally admitted that not only one of the keenest lawyers and most fearless administrators that the magisterial bench had perhaps ever attracted to itself was removed from active service, but also a personality which won for its owner the veneration and respect of all classes of the community. During the whole of the thirty-six years he held the important post referred to, his reputation as a brilliant magisterial lawyer steadily grew, whilst the strict impartiality and scrupulous fairness which characterised his conduct of the court proceedings endeared him to all who had to practise before him, and made the county police court there a model.

Striking tributes were paid at the Cardiff Magistrates' Court at the first sitting which followed his death, in which members of the Bench, representatives of both branches of the legal profession and of the police force joined. The chairman (Mr. C. E. Dovey) said, in the course of his remarks, that during the long years of unbroken service of Sir T. W. Lewis as Stipendiary Magistrate he had raised the reputation of Cardiff, as far as the administration of justice was concerned, to a very high standard. His judgments were invariably the personification of justice and equity, and would stand for a very long period. The magistrate's clerk (Mr. E. J. Hayward) and others present associated themselves with the chairman's remarks.

H.

High Court—Chancery Division.

In re **Frewen.** Lawrence, J. 18th March.

SETTLED LAND—LIMITED OWNERS WITH POWERS OF TENANT FOR LIFE—PERSON ENTITLED TO INCOME OF LAND SUBJECT TO A TRUST FOR ACCUMULATION OF INCOME—TRUSTEES WITH POWERS OF A TENANT FOR LIFE—SETTLED LAND ACT, 1925, 15 Geo. 5, c. 18, s. 20, s-s. 1 (viii) and s. 23.

Where trustees were, in certain events which happened, to enter into possession or receipt of the income of the settled estate and manage it with power to deal therewith as absolute owners, but to pay two-thirds of the net income to A and accumulate the remaining one-third,

Held, that A was not a person having the powers of a tenant for life within s. 20 (1) (viii) *of the Settled Land Act*, 1925, *but that the trustees were the persons having those powers by virtue of s.* 23 *of the said Act.*

In re Jones, 1884, 26 Ch. D. 736, *distinguished.*

This was an originating summons taken out by the trustees under s. 93 of the Settled Land Act, 1925, to have it determined whether the respondent, Thomas Frewen, was tenant for life or a person having the powers of a tenant for life under that Act of the settled estate or whether the trustees had the powers of a tenant for life under the Act, or whether they held the settled estate upon the statutory trusts. The facts were as follows: Under an indenture of settlement dated 1st May, 1906, and a deed of appointment thereunder dated 19th January, 1918, freehold and copyhold lands stood limited upon trusts that the trustees of the settlement should (subject to trusts of the income in favour of Edward Frewen and his wife which had ceased on their deaths) after the death of Edward, which happened on 13th January, 1919, enter into possession or receipt of the income of the settled estate, and should during the remainder of the life of Thomas Frewen continue in such possession or receipt and manage the settled land with power generally to deal therewith as if the trustees were absolute owners thereof and should hold the net income of the settled estate (which expression included as well as the lands and hereditaments, capital money and investments for the time being subject to the settlement) after payment of management expenses upon trust to pay two third parts thereof or the annual sum of £500 whichever should be the greater amount, to Thomas for his life unless or until some act or event should happen whereby such income would, if belonging absolutely to him, have become vested in or charged in favour of some other person. The trustees were further directed to hold the other one third part of the said income upon the trusts and subject to the powers and provisions upon and subject to which capital money arising under the Settled

Land Acts from freehold hereditaments forming part of the settled estate would be held, that is to say, on trust after the death of Thomas for his first and other sons successively in remainder according to their respective seniorities, and the heirs male of their respective bodies with divers remainders over. Upon the death of the wife of Edward, in 1922, the trustees entered into and continued in possession of the settled estate and dealt with the income thereof according to the directions contained in the deed of appointment. On 16th November, 1922, the trustees entered into a contract for the sale of part of the settled estate, and the purchaser raised the question who were the proper persons to convey. It was contended on behalf of the trustees that Thomas was not entitled to the income subject to a trust for accumulation within the meaning of s. 20 (1) (viii) of the Settled Land Act, 1925, and that in those circumstances the trustees were persons having the powers of a tenant for life within s. 23 of that Act. On the other side it was contended that Thomas was a person having the powers of a tenant for life within s. 20 (1) (viii) as he was entitled to all available income, and *In re Jones*, 1884, 26 Ch. D. 736, and *In re Clitheroe Estate*, 1885, 31 Ch. D. 135, were referred to.

LAWRENCE, J., after stating the facts, said the question arises whether the respondent, Thomas Frewen is a person having the powers of a tenant for life under s. 20 (1) (viii) of the Settled Land Act, 1925. It is not suggested that he is a tenant for life under s. 19 of that Act, but it has been contended on behalf of the respondent that as the result of the settlement and appointment, and in the events which have happened, the respondent is entitled to the income of the settled estate for life subject to a trust for the accumulation of part of the income, and that therefore he is a person having the powers of a tenant for life directly within s. 20 (1) (viii) of the Settled Land Act, 1925. On the other hand it has been contended that there is no person having the powers of a tenant for life under that Act, and that in the absence of such a person the trustees of the settlement are by virtue of s. 23 of the Act persons having the powers of a tenant for life. Notwithstanding the weight of the argument advanced on behalf of the respondent that his position under the present trusts is the same as it would be if the income of the settled estate had been given to him subject to a trust to accumulate part thereof, yet the question must depend upon the particular wording of the trust under which he takes the income. Under the appointment there is no overriding trust for accumulation of income, but the respondent is given a definite fraction only of the income namely, two-thirds, while the other one-third part is directed to be accumulated and dealt with as capital money arising under the settlement. The argument that the effect of the appointment is to give him the whole available income subject to a trust for accumulation of part of it cannot be allowed to prevail in face of the particular terms of the trust in question, the object of which is to prevent the respondent from becoming a tenant for life or having the powers of a tenant for life. The trust is so framed as to give effect to that which was the intention of the parties. There will be a declaration that the respondent is not a person having the powers of a tenant for life under the Settled Land Act, 1925, but that the appellants as trustees of the settlement are persons having those powers by virtue of s. 23 of this Act.

COUNSEL: *J. W. F. Beaumont; Hugh Gamon.*

SOLICITORS: *Collisson, Pritchard & Barnes.*

[Reported by L. MORGAN MAY, Esq., Barrister-at-Law.]

In re Lang Propeller, Limited.

Eve, J. 31st March.

INCOME TAX—PRIORITY—DEDUCTION OF TAX FROM INTEREST ON MORTGAGE—NOT ACCOUNTED FOR TO COMMISSIONERS—PRIORITY OF CROWN IN WINDING-UP—COMPANIES (CONSOLIDATION) ACT, 1908, 8 Edw. 7, c. 69, s. 209.

Where a company on paying interest on a mortgage deducted thereout the income tax thereon without accounting for it to the Commissioners, which consequently remained a debt due to the Crown.

Held, that the Crown was not entitled under the Companies (Consolidation) Act 1908, *s.* 209, *to be paid the amount so deducted in priority to the other creditors of the company.*

The above company was registered in 1913 and in 1920 mortgaged its freehold works to secure an advance of £30,000 and interest. When paying the interest to the mortgagee the company deducted the amount of the tax which they ought to have accounted for to the Commissioners of Inland Revenue, but failed to do so. In November, 1923, a resolution was passed for the voluntary winding up of the company. This originating summons was taken out by the liquidator of the company for the purpose of determining the question whether the Inland Revenue Commissioners were entitled to be paid the amounts so deducted in priority to other debts of the company or whether they were entitled in priority to all debts other than those comprised in s. 209 of the Companies (Consolidation) Act, 1908.

Eve, J., said that he could not see how the amounts in question could be brought within s. 209. They did not in any sense answer the description of a tax assessed on the company; on the contrary, they constituted the income tax under Sched. D, upon the mortgagee in respect of the interest receivable by him under his mortgage, and r. 21, s-s. 1, only operated to make the mortgagor company the agent of the Crown for collecting the tax payable by the mortgagee. When the deduction had been made, or, putting it in another way, when the mortgagor had collected the tax from the mortgagee, the liability to account for the amount was shifted to the mortgagor, and became a debt due from him to the Crown. In his opinion there was nothing in the language of s. 209 which gave any priority to the debt. Nor could the argument prevail which would have the court hold those deductions to be moneys in the hands of the mortgagor company, and impressed with a fiduciary character and capable of being followed and recovered as such. Before that doctrine could be applied to a case like the present, it must have been established that a sum of money came into the hands of the alleged trustee, but here no such sum ever existed in a tangible form. The transaction was merely a payment to the mortgagee of the interest less the tax. The mortgagors received nothing; all they did was to provide a sum just sufficient to pay what had to be paid to the mortgagee, and there never came into existence any money to which the doctrine invoked could apply. The result was that the Crown was not entitled to be paid any part of the deductions in priority to the other creditors of the company. The costs of the summons would come out of the company's assets, and there would be no order as to the commissioners' costs.

COUNSEL: *Jenkins*, K.C., and *Bischoff*; *R. P. Hills*; *The Attorney-General* (*Sir Douglas Hogg*, K.C.), with him.

SOLICITORS: *Julius, Edwards & Julius*; *Solicitor to Inland Revenue.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Southern Railway Co. *v.* Gosport Corporation and Eddison Steam Rolling Co., Ltd.

Greer, J. 24th, 25th, 26th, 29th, 30th March.

BRIDGE—RAILWAY—DAMAGE BY LOCOMOTIVE—LIABILITY FOR DAMAGE—LOCOMOTIVE ACT, 1861, 24 & 25 Vict., c. 70, s. 7.

By s. 7 *of the Locomotive Act*, 1861, "*Where any turnpike or other roads, upon which locomotives are or hereafter may be used, pass . . . over or across . . . any railway, by means of any bridge . . . and such bridge . . . shall be damaged by reason of any locomotive passing over the same or coming into*

contact therewith, . . . every such damage shall be forthwith repaired . . . at the expense of the owner or owners or person or persons having the charge of such locomotive at the time of the happening of such damage; and all such owner and owners, person and persons, having the charge of such locomotive as aforesaid, shall also be liable, both jointly and severally, to reimburse and make good as well to the proprietors . . . and other persons having charge of any such . . . railway . . . as to all persons . . . who but for any such obstruction, interruption or delay would have used the same, all losses and expenses which they . . . may sustain or incur by reason of any such obstruction, interruption or delay . . ." *Under s. 7 of the Locomotive Act*, 1861, *the liability to make good the cost of repairing the damage done to a bridge by a locomotive is imposed upon the owner or other person having the charge of such locomotive at the time of the happening of such damage and not upon them jointly and severally. Joint and several liability arises only in respect of consequential damage.*

Action by the plaintiffs to recover £321 4s. 10d., the cost of partially reconstructing a bridge belonging to them which carried a public road in Hampshire over their railway. The plaintiffs alleged that the damage to the bridge was caused by the joint negligence of the defendants, or, alternatively, that the defendants were jointly and severally liable under s. 7 of the Locomotive Act, 1861. By an agreement between the plaintiffs and the defendant corporation the obligation to repair the bridge rested upon the corporation. In May, 1924, the road crossing the bridge was in need of repair. While the work was being carried out by the corporation by means of a steam roller owned by the defendant company the damage complained of was done. The defendant company hired the steam roller to the defendant corporation along with their driver, who thereby became the servant of the corporation. Each of the defendants denied negligence, and denied also that they were liable by virtue of s. 7 of the Locomotive Act, 1861.

GREER, J., in dealing first with the effect of the evidence, held that the defendant corporation negligently used the steam roller on the bridge; that the damage at the time in question resulted from that negligence; but that the bridge was already very much weakened by the passing over it of heavy vehicular traffic, which weakness would necessitate the plaintiffs having to spend a large sum in repairs in a few months' time.

The second point to be considered was whether the defendant company were also liable by virtue of s. 7 of the Locomotive Act, 1861, although they were absolved for the negligent way in which the rolling was done. Damage caused to a bridge which crossed a railway by reason of a locomotive passing over it was, by s. 7, to be repaired forthwith "by and at the expense of the owner or owners or the person or persons having the charge of such locomotive at the time of the happening of such damage." Did those words mean that both the owner of the locomotive and the person having charge of it at the time were liable to repair the damage? Or was the meaning that the obligation was only imposed upon the person actually in charge of the locomotive at the time—the owner, if he was in charge; and the other person, if he was in charge? In his (his Lordship's) opinion, the latter was the proper interpretation. An extraordinary state of things would result if, when a bridge was damaged and immediate repairs were necessary to make it safe, it should be left to two persons to decide which of them would do the work, the damage meanwhile remaining unrepaired. The words of the section quoted above stated that the damage to the bridge was to be repaired forthwith "by and at the expense of the owner or owners or"—not "and"—"the person or persons having the charge of such locomotive." If the owner was using the locomotive at the material time he had to repair the damage; if some person other than the owner had charge, he had to repair the damage. It was true (although the point did not arise in the case) that the section further dealt with consequential damage suffered by a railway company through obstruction, interruption or delay caused to them by the damage, and that for such damage the "owner and owners, person and persons having charge of such locomotive as aforesaid, shall also be liable both jointly and severally." It seemed odd that the obligation to repair the actual damage should be alternative—to be determined not by choice but by the fact of who had charge of the locomotive at the material time—whereas the liability for the consequential damage was joint and several. But such was the case. When the Legislature intended, as here, to impose a joint and several liability it knew how to do so by the use of express language. On the whole, therefore, the construction he had placed upon the section seemed to be correct, and as the defendant corporation were in this case in charge of the locomotive the obligation to repair fell upon them, and not upon the defendant company. If the damage to the bridge was not repaired forthwith the section gave the railway company, as owners of the bridge, the right to say that they had suffered damage because of non-repair, and to recover upon that ground. But he had held that the corporation were negligent in fact and that that negligence had caused the damage to the bridge. That damage he assessed at £10, and judgment against the defendant corporation for that amount would be entered accordingly.

COUNSEL: For the plaintiffs: *Schiller*, K.C., and *The Hon. S. O. Henn Collins*; for the defendant corporation: *Rayner Goddard* and *Trapnell*; for the defendant company: *Holman Gregory*, K.C., and *J. L. Pratt*.

SOLICITORS: For the plaintiffs: *W. Bishop*; for the defendant corporation: *Kenneth Brown, Baker, Baker*, for *Edgar J. Bechervaise*, Portsmouth; for the defendant company: *King, Wigg & Brightman*, for *Andrews, Barrett and Wilkinson*, Weymouth.

[Reported by COLIN CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

The "Ruapehu." Hill, J. 29th March.

SHIPPING—REPAIRS—DOCKOWNERS—DAMAGE TO SHIP BY FIRE IN DOCK—SHIP UNDER REPAIR—LIABILITY, LIMITATION OF—MERCHANT SHIPPING (LIABILITY OF SHIPOWNERS AND OTHERS) ACT, 1900, 63 & 64 Vict., c. 32, s. 2.

Where a ship was damaged by fire while undergoing repairs in a dry dock belonging to the repairers, such repairers were held not entitled to limit their liability under s. 2 of the Merchant Shipping (Liability of Shipowners and Others) Act, 1900, 63 & 64 *Vict., c. 32, on the ground that the work was being done by them as dockowners.*

"The City of Edinburgh," 1921, P. 70, *applied*.

Action of limitation of liability. The plaintiffs in this case sought to limit their liability under s. 2 of the Merchant Shipping (Liability of Shipowners and Others) Act, 1900, for certain damage done by fire to the defendants' steamship "Ruapehu" while she was undergoing repairs which were being carried out in a dry dock owned by the plaintiffs. The plaintiffs had already in an action been held liable for the damage, and their present claim was under the above Act, s. 2, the material parts of which are as follows: "(1) The owners of any dock or canal, or a harbour authority, or a conservancy authority, as defined by the Merchant Shipping Act, 1894, shall not, where without their actual fault or privity, any loss or damage is caused to any vessel or vessels . . . be liable to damages beyond an aggregate amount not exceeding eight pounds for each ton of the tonnage of the largest registered British ship which, at the time of such loss or damage occurring, is, or within the period of five years previous thereto has been, within the area over which such

dock . . . owner . . . performs any duty or exercises any power . . . (4) For the purpose of this section the term 'dock' shall include wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks . . ."

HILL, J., after stating the facts, said: The "Ruapehu," at the time of the fire, was undergoing repairs in a dry dock which formed part of the plaintiffs' works at Blackwall. The fire was caused by the negligence of the plaintiffs' servants in and about the repairs, but, it was agreed, without the actual fault or privity of the plaintiffs. The plaintiffs claimed that they were entitled to limit their liability under the Act of 1900, on the ground that they were the "owners of a dock" within the meaning of s. 2. The negligence for which the plaintiffs had been held liable had nothing whatever to do with the docking or undocking of the vessel or other matter necessary to the proper management of a dry dock or of a ship in relation to a dry dock. There is no direct decision applicable to the present case. The decision in *The City of Edinburgh*, 1921, P. 70 and 274, is that a ship repairer cannot limit his liability on the sole ground that he owned a dry dock at a place remote from the spot where the ship lay during the repairs, but the judgment of the Court of Appeal in that case gives me some guidance as to the principle to be applied in construing the section. The section presupposes a liability and limits it. The Court of Appeal said that the liability was a liability of a dockowner as dockowner, a liability incurred in the capacity of a dockowner, and did not include a liability for anything a dockowner chose to do in any other capacity. Applying that principle to the facts of this case, it is apparent that the work on which the negligence arose was work of the plaintiffs done in the capacity of ship repairers, and not in the capacity of dry dock owners. If the damage had occurred while the "Ruapehu" was being repaired by the plaintiffs in the dock of a public authority, it would be clear that the repairers would not have incurred the liability in the capacity of dockowners, and the fact that the ship was in a dry dock belonging to the repairers does not turn the work into work done in the capacity of dockowners. I therefore hold that s. 2 does not apply, and that the claim fails.

COUNSEL: *Langdon*, K.C., and *Carpmael*; *W. A. Jowitt*, K.C., and *G. St. C. Pilcher*.

SOLICITORS: *Pritchard & Sons*; *W. A. Crump & Sons*.

[Reported by L. MORGAN MAY, Esq., Barrister-at-Law.]

Societies.

City of London Solicitors' Company.

The seventeenth annual general meeting of the City of London Solicitors Company was held at the Guildhall, on Tuesday afternoon, the 11th inst.

Mr. Percy D. Botterell, C.B.E. (the Master) presided, and among those present were Mr. A. C. Stanley-Stone, C.C. (Senior Warden), Mr. Hugh D. P. Francis (Junior Warden), Sir Homewood Crawford, C.V.O. (Senior Past Master), Mr. G. L. F. McNair (Past Master and Treasurer), Mr. Sydney C. Scott (Past Master), Mr. T. H. Wrensted (Past Master), Mr. E. Burrell Baggallay, J.P. (Past Master), Mr. J. Montague Haslip, J.P. (Past Master), Mr. G. Stanley Pott (Immediate Past Master), Mr. Harry Knox (Senior Steward), Mr. J. H. N. Armstrong, Mr. R. S. Fraser, Mr. A. F. I. Pickford, Mr. E. G. Roscoe and Mr. A. T. Cummings, Abchurch House, Sherborne Lane, E.C. (Clerk).

The Master submitted the annual report of the Court of Assistants from which we extract the following interesting items:—

"COMPANY LAW AND PRACTICE.

"The Sub-Committee which was appointed to prepare a Report compiled an exhaustive Memorandum, copies of which were forwarded to the Secretary of the Departmental Committee appointed by the Board of Trade to consider and report what amendments are desirable in the Companies Acts 1908-1917. On the 21st May, 1925, Messrs. G. Stanley Pott, H. D. P. Francis and F. M. Guedalla attended before the Committee to give evidence in support of the Memorandum. At the conclusion of the examination, Mr. Wilfrid Greene, K.C., the Chairman of the Committee, stated on behalf of the Committee how extremely obliged they were for the great assistance that had been given. The Minutes of Evidence have been printed and published, and can be purchased from H.M. Stationery Office.

"PROCEEDINGS BY AND AGAINST THE CROWN.

"Messrs. G. Stanley Pott and S. C. Scott represented the Company in a deputation to the Lord Chancellor on the 29th June last. The deputation was introduced to his Lordship by Mr. E. C. Grenfell, M.P. Sir Norman Hill put the case on behalf of the Liverpool Steamship Owners' Association, and Mr. J. Sandeman Allen, M.P., was also heard as representing the Association of British Chambers of Commerce.

"The Lord Chancellor expressed his pleasure at hearing these gentlemen, and mentioned that he had read very carefully the two Statements which had been put before him, one a Statement of the Deputation from the Law Society, and the other a Statement from the Chamber of Shipping.

"At the conclusion of the speeches, the Lord Chancellor stated that he was awaiting the report of the Committee which had been appointed to deal specially with all the questions referred to, and promised when this report came in, to give the points submitted his careful consideration, in conjunction with the Attorney-General.

"Mr. Grenfell, on behalf of the Deputation, thanked His Lordship for his courteous reception.

"The matter is still under consideration.

"CLAIMS BY AND AGAINST THE INCOME TAX AND INLAND REVENUE AUTHORITIES.

"Members will have noticed the general outcry against the very unfair position in which the taxpayer stands with regard to the heavy costs incurred in appeals by the Income and Inland Revenue Authorities. The Court passed the following resolution:—

"'That in all cases of litigation in the High Court of Justice arising from Claims for Income Tax, Super Tax or Death Duties, the Crown should pay all costs, as between Solicitor and Client, of any Appeal thereto or therein where the Crown, the Inland Revenue, or a Surveyor or Commissioners of Taxes, or any other Government authority, is or are the Appellant, whether or not such Appellant succeeds in such appeal, and that steps should be taken to promote legislation to that effect.'

"A copy of this resolution was forwarded to the Secretary of the Law Society, by whom it was handed to one of the Representatives on a Deputation which was then about to be received by the Chancellor of the Exchequer.

"The reply of the Chancellor to the Deputation was not encouraging, but the question is of considerable public interest, and will be pressed.

"PRACTICE BEFORE THE REGISTRARS OF THE PROBATE AND DIVORCE DIVISION.

"Complaints having been received of the great delay which is being experienced by Solicitors in obtaining appointments before the Registrars of the Probate and Divorce Division of the High Court, especially with regard to the Hearing of Petitions for maintenance or permanent alimony, and variations of settlements after Decree Absolute, a letter was addressed to the President of the Probate, Divorce and Admiralty Division suggesting some reorganisation of the Department, and the practice therein. The President, in acknowledging the letter, stated he was at present in communication with the Registrars at the Principal Probate Registry, and hoped shortly to receive a report on the position.

"CONVEYANCING AND LAW OF PROPERTY ACTS.

"The Court was extremely fortunate in obtaining the honorary services of Mr. F. C. Watmough, of the Chancery Bar, for three weekly discussions, which were held at Carpenters' Hall in January last, to consider and discuss matters of practical importance in connection with these Acts, more particularly matters requiring early attention in the New Year. These discussions proved extremely popular, as was evidenced by the large number of Members and their Clerks who attended them. The Court has expressed to Mr. Watmough its appreciation of his kindness, in which, it is felt, the Members would wish to concur.

"THE ANNUAL BANQUET.

"The Annual Banquet was held on the 23rd February, at Merchant Taylors Hall, by kind permission of the Master and Wardens of the Merchant Taylors Company, to meet the Lord Chancellor and the President of the Law Society. The very large Company included the following distinguished guests: Jonkheer Dr. R. de Marees van Swinderen (Netherlands Minister), Lord Ritchie of Dundee, Lord Sumner,

Lord Hewart, Lord Hanworth, Lord Merrivale, Lord Justice Atkin, Mr. Justice Bateson, Sir Douglas McGarel Hogg, Sir Patrick Hastings and Sir T. R. Hughes.

"The toast of the City of London Solicitors Company was proposed by Lord Hanworth, Master of the Rolls, who said 'that the Company could not boast a history of many centuries, as could the Merchant Taylors, in whose hall they were met, but although in actual number of years theirs was the youngest of the Guilds, yet in the traditions it preserved it was, indeed, one of the oldest.' He observed 'that it had all along made use of its opportunities in every way, as, for instance, in providing lectures for its Members, and in keeping a watch over matters in Parliament.'

"HONORARY COUNSEL.

"The Honorary Standing Counsel, Mr. R. A. Wright, K.C., having been elevated to the Bench, the Court has been fortunate in securing Mr. Stuart J. Bevan, K.C., to take his place, and he has been duly elected.

"GOLF CHALLENGE CUP.

"The competition for this Cup, which had been in abeyance since the War, was resumed last year. Mr. J. B. Hartley kindly undertook the arrangements, and matches were played over the Sunningdale Golf Course on the 3rd June, 1925. Mr. H. W. Morris, of No. 2 Walbrook, was declared the winner. It was intended that the Cup should be competed for this year on the same course, on Wednesday, the 12th inst., but the competition was postponed on account of the general strike. A date will be fixed later and an announcement made as soon as possible in THE SOLICITORS' JOURNAL as to time and place.

COURT OF ASSISTANTS.

"During the past year the Court co-opted two additional Members, namely: Mr. A. F. I. Pickford, the City Solicitor, and Mr. E. G. Roscoe, of the firm of Messrs. Ince, Colt, Ince & Roscoe.

"The attention of Members is called to the following provision of the Articles of Association of the Company:—

"'The name of any Member of the Company proposed for election to the Court, together with written notice of intention to propose him and his written consent to serve, shall be sent to the Clerk not less than fourteen days prior to the meeting at which he is to be proposed and the name shall be sent by the Clerk to all Members of the Court not less than seven days prior to such meeting.'"

The Hon. E. G. Eliot was elected to the vacancy on the court of assistants and Mr. A. S. Hicks was re-elected honorary auditor.

At a Court held at the conclusion of the annual meeting, Mr. A. C. Stanley-Stone, C.C., was elected master, Mr. Hugh D. P. Francis, M.C., was elected senior warden, and Mr. Harry Knox was elected junior warden. Mr. G. L. F. McNair was re-elected honorary treasurer. Mr. E. J. Stannard was elected senior steward and Mr. F. M. Guedalla junior steward. Mr. A. T. Cummings was re-elected clerk.

Law Students' Journal.

Inns of Court Moot.

Lord Hanworth presided at a Moot held in Lincoln's Inn Hall on the 26th ult. The facts of the case, which was argued as an appeal, were as follows: "At a sale by auction of a number of freehold properties in separate lots A, thinking that lot 3 comprised Blackacre, which he was anxious to buy, bid for the lot and was declared the purchaser. He subsequently signed the requisite formal contract to purchase lot 3 without discovering as was the fact, that lot 3 comprised Whiteacre, and not Blackacre. The mistake was solely due to A's own carelessness, and the price was not extravagant. A, on discovering his mistake, refused to complete the purchase, and the vendor sued him for specific performance. The judge granted the decree. A appeals to the Court of Appeal on the ground that there was no contract, and also on the ground that if there was a contract the proper remedy was by way of damages and not for specific performance." Mr. Charles E. Harman and Mr. J. A. W. Gibson appeared for the appellant; and Mr. R. S. Nettleton and Mr. C. Stevenson for the respondent. The Master of the Rolls, in dismissing the appeal, said that he would begin by stating a principle which was quite clear—namely, that a unilateral mistake would not excuse from the responsibility for his bargain the person who had made the mistake. It would not be right to hold that the appellant's mistake was a reasonable ground to excuse him from his bargain, and on that point the appeal failed.

Rules and Orders.

COUNTY COURT, ENGLAND.

PROCEDURE.

THE TITHE RENTCHARGE RECOVERY RULES, 1926.

DATED APRIL 29, 1926.

1. These Rules may be cited as the Tithe Rentcharge Recovery Rules, 1926, and shall come into operation on the 17th day of May, 1926, and shall be read and construed with the Tithe Rentcharge Recovery Rules, 1891 (*a*).

A Rule referred to by number in these Rules means the Rule so numbered in the Tithe Rentcharge Recovery Rules, 1891.

A Form referred to by number in these Rules means the Form so numbered in the Appendix to the Tithe Rentcharge Recovery Rules, 1891.

The Tithe Rentcharge Recovery Rules, 1891, shall have effect as amended by these Rules.

2. Rule 8 shall be annulled and the following Rule shall be substituted therefor:—

"8. Where no notice of opposition is given and the amount claimed and costs have not been paid into Court, then subject to the proviso hereinafter contained the Court on the day appointed for the hearing may, without requiring proof of the applicant's title to the tithe rent charge claimed, make an order for the recovery of the amount claimed and costs; and for that purpose shall either appoint a receiver or if the applicant has stated in his notice of application that the lands are occupied by the owner appoint an officer to distrain:

Provided that if a respondent appears at the hearing of the application and desires to oppose the application the Court may, but on such terms as to payment into Court, costs or otherwise as the Court thinks fit, adjourn the hearing in order that such respondent may file his notice of opposition."

3. In Rule 9—

after the words "payment into Court" there shall be inserted the word ", costs"; and

the words "another day" shall be substituted for the words "a day."

4. Rule 10 shall be annulled and the following Rule shall be substituted therefor:—

"10. Where notice of opposition has been given but no respondent appears at the hearing of the application the Court may, without requiring proof of the applicant's title to the tithe rentcharge claimed, make an order for the recovery of the amount claimed and costs and for that purpose shall appoint a receiver or an officer to distrain as the case may be."

5. Rule 11 shall be annulled and the following Rule shall be substituted therefor:—

"11. A ground of opposition not mentioned in the notice of opposition shall not be entertained by the Court except on such terms as to adjournment, payment into Court, costs or otherwise as the Court thinks fit."

6. The note at the foot of Form 4 shall be annulled and the following note shall be substituted therefor:—

"If you do not give notice of opposition or (whether you have or have not given such notice) do not appear on the day appointed for the hearing the Court may make an order against you in your absence."

Dated the 29th day of April, 1926. *Cave*, C.

(*a*) S.R. & O. 1904, III, County Court, E., p. 575.

Legal News.

Appointment.

NEW KING'S PROCTOR.

The King has been pleased by Warrant under his Royal Sign Manual, bearing date the 10th inst., to appoint MAURICE LINFORD GWYER, Esquire, C.B., to be His Majesty's Procurator in all causes and matters Matrimonial, Maritime, Foreign, Civil and Ecclesiastical, in the room of the late Hon. Alfred Clive Lawrence, C.B.E.

Mr. Gwyer, who is forty-eight, was educated at Westminster and Christ Church, Oxford, and was elected a fellow of All Souls College in 1902. He was called to the Bar by the Inner Temple, was formerly lecturer on private international law at Oxford, and edited the late Sir William Anson's well-known works on the law of contract and the law and custom of the Constitution. In 1912 Mr. Gwyer was appointed solicitor to the Insurance Commissioners, in 1917 he entered the Ministry of Shipping as legal adviser, and in 1919 was transferred to the Ministry of Health as solicitor and legal adviser. In 1921 he was created C.B.

Professional Announcement.

Messrs. GOLDEN, HOLME & WARD, of 34, Old Jewry, E.C.2, have taken into partnership Mr. LEONARD PLOWMAN and Mr. EDGAR LAWRENCE NEWALL TUCK, who have been with them for many years past. The name of the firm will remain unchanged.

Wills and Bequests.

Sir Paul Vinogradoff, Corpus Professor of Jurisprudence at Oxford University, left estate of the gross value of £5,187. He gave his books on law, jurisprudence, legal history, social and political science and philosophy to the University of Oxford to be kept in the Marsland Library.

Mr. Thomas Henry Burr, Keighley, solicitor, left estate of the gross value of £14,870.

Mr. Henry Laycock, Bingley, Yorks, solicitor, left estate of the gross value of £6,026.

SUMMER ASSIZES.

The following days and places have been fixed for holding the Summer Assizes :—

OXFORD CIRCUIT.—(Mr. Justice Avory and Mr. Justice MacKinnon.)—Thursday, 27th May, at Reading; Thursday, 3rd June, at Oxford; Monday, 7th June, at Worcester; Friday, 11th June, at Gloucester; Friday, 18th June, at Monmouth; Friday, 25th June, at Hereford; Wednesday, 30th June, at Shrewsbury; Monday, 5th July, at Stafford.

WESTERN CIRCUIT.—(Mr. Justice Roche and Mr. Justice Swift.)—Tuesday, 25th May, at Dorchester; Saturday, 29th May, at Wells; Saturday, 5th June, at Bodmin; Saturday, 12th June, at Exeter; Saturday, 19th June, at Bristol; Monday, 28th June, at Winchester.

SOUTH-EASTERN CIRCUIT (First Portion).—(Mr. Justice Shearman.)—Thursday, 20th May, at Huntingdon; Monday, 24th May, at Cambridge; Saturday, 29th May, at Bury St. Edmunds; Saturday, 5th June, at Norwich; Saturday, 12th June, at Chelmsford.

MIDLAND CIRCUIT.—(Mr. Justice Acton.)—Wednesday, 26th May, at Aylesbury; Monday, 31st May, at Bedford; Thursday, 3rd June, at Northampton; Tuesday, 8th June, at Leicester; Monday, 14th June, at Oakham; Tuesday, 15th June, at Lincoln; Tuesday, 22nd June, at Nottingham; Tuesday, 29th June, at Derby. (Mr. Justice McCardie.)—Monday, 5th July, at Warwick. (Mr. Justice McCardie and Mr. Justice MacKinnon.)—Saturday, 10th July, at Birmingham.

NORTH WALES AND CHESTER CIRCUIT.—(Mr. Justice Sankey and Mr. Justice Branson.)—Monday, 24th May, at Newtown; Thursday, 27th May, at Dolgelly; Monday, 31st May, at Carnarvon; Monday, 7th June, at Beaumaris; Thursday, 10th June, at Ruthin; Tuesday, 15th June, at Mold; Saturday, 19th June, at Chester.

NORTHERN CIRCUIT.—(Mr. Justice Talbot and Mr. Justice Fraser.)—Saturday, 29th May, at Appleby; Tuesday, 1st June, at Carlisle; Monday, 7th June, at Lancaster; Saturday, 12th June, at Liverpool; Monday, 5th July at Manchester.

HOUSE OF LORDS AND THE MATERNITY HOMES BILL.

The Marquis of Salisbury (Lord Privy Seal) on Monday, moved the Second Reading of the Midwives and Maternity Homes Bill, which seeks to amend the existing law to provide among other things, that an unqualified woman may act as a midwife only in cases of sudden and urgent necessity, or under the direction and supervision of a qualified medical practitioner. It also provides for the registration and inspection of maternity homes.

Viscount Knutsford expressed the hope that hospitals would not be excluded from registration and inspection as was proposed by the bill, because inspection was very useful in securing the confidence of the public.

The Marquis of Salisbury promised that this would be considered before the next stage of the bill.

The Second Reading was agreed to.

JUDGE AND ABSENT DEBTORS.

Mr. Justice Lawrence, in the Chancery Division recently, refused to make committal orders against judgment debtors who failed to answer summonses. There were fifty-two names in the list, and not more than half appeared. His lordship said he would not commit any man who failed to turn up at a time like the present, and he directed such cases to stand over for a month. It was stated that one man who failed to answer had been seen in court earlier, and Mr. Justice Lawrence asked to be reminded of it at the next sitting.

UNPAID SUPERTAX.

Mr. Churchill, replying to Mr. Hurd (Devizes, U.), said the amount of supertax for the year 1925-26, which was assessed by 31st March last, was £47,500,000 and of this sum £32,500,000 was paid by 31st March. The figure of £47,500,000 represented a much higher proportion of the year's charge than was attained in previous years.

Mr. Churchill, replying to Mr. Thurtle (Shoreditch, Lab.), said he was aware that the effect of recent judicial decisions was that a bonus distribution by a company in the form of an issue of its debentures did not in certain circumstances constitute income of the recipients for supertax purposes. Where this was the position it would appear that the subsequent redemption of the debentures would not normally entail liability. He was not prepared at the present time to express an opinion as to the desirability of legislation on the subject.—Mr. Thurtle: Can the right hon. gentleman give the general assurance that in this and other respects he will press home his attacks on the supertax payer with the same vigour that he has shown in the case of insured persons?—Mr. Churchill: The increasing efficiency of the collection of supertax should be a complete answer to that question.—Colonel Wedgwood (Newcastle-under-Lyme, Lab.): What steps will be taken to close this new loophole for evading legitimate taxation?—Mr. Churchill: At regular intervals in the year—namely, on the presentation of the Finance Bill—the Chancellor of the Exchequer is accustomed to propose certain measures for stopping such leakages as from time to time make their appearance in our system of taxation. Whether this particular leakage is of sufficient dimensions to require immediate treatment is a matter on which I have nothing to say at the present time.

SOLICITOR SUSPENDED AND TWO STRUCK OFF THE ROLL.

At a meeting of the Committee of The Law Society, constituted under the Solicitors' Acts, 1888-1919, held in their hall in Chancery-lane, on the 30th ult., Mr. C. A. Coward presiding, the under-mentioned solicitors were declared guilty of professional misconduct. The first-named was suspended and the other two were struck off the Roll: Harold Montague Lloyd, 14, Dumfries-place, Cardiff, was suspended for six months, and ordered to pay the taxed costs of the inquiry, for misappropriating to his own use the sum of £100, the property of his clients; Frederick William Martin and John Wessley Martin, both of Reading, having been convicted at the Reading Assizes of fraudulent conversion, and each having been sentenced to three years' penal servitude, were ordered to be struck off the Roll.

LAW OF ARBITRATION INQUIRY.

The Lord Chancellor has appointed Mr. Justice MacKinnon (chairman), Mr. John Gordon Archibald, Sir Thomas Willes Chitty, Sir James Martin, Mr. Frank Boyd Merriman, K.C., M.P., and Mr. William Norman Raeburn, K.C., to be a committee to consider and report whether any, and, if so, what, alterations are desirable in the law relating to arbitration, and in particular to submissions, arbitrations, and awards made or held in England and Wales, or the law relating to the effect given in England and Wales to submission, arbitrations, and awards made or held elsewhere.

ROYAL BOROUGHS.

The question of the right of Devizes to be described as a Royal borough having been referred to the Home Secretary, the following reply has been received from the Home Office: "On the subject of the Royal boroughs, I am directed by the Secretary of State to say that the title of 'Royal borough' may only be applied to a borough by the express permission of His Majesty, and that the only boroughs in England which have received such permission are Kensington and Windsor. So far as the Secretary of State is aware Devizes is not entitled to style itself a Royal borough; the fact that the manor is, or has been, in the possession of the King not contributing any claim to the title."

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4. (transacting ALL CLASSES OF INSURANCE BUSINESS) invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at 11, Waterloo Place, S.W.1; 187, Fleet Street, E.C.4.; 20-22 Lincoln's Inn Fields, W.C.2, and throughout the country.

SCHOOLS AND INCOME-TAX.

The need for a provision in the Finance Bill to deal with the charge on income-tax on surpluses arising from fees and other sources of income to universities and public schools was urged by a deputation representing most of the British Universities and Public Schools which waited on Mr. Ronald McNeill, the Financial Secretary to the Treasury, on Tuesday last. The deputation pointed out that the profits made by schools and universities went back to the institutions, and were not comparable to the profits of business. The profits of schools and universities had always been exempt from income-tax until a recent decision of the House of Lords, which laid it down that tax was payable on them. Mr. McNeill promised that the representations made should receive consideration.

SHORT WEIGHT BILL.

The Prime Minister, in reply to Viscount Sandon (U., Shrewsbury), on Monday, said that a bill to give effect to the recommendations of the Food Council with regard to short weight was in an advanced state of preparation and he hoped it would be introduced at an early date. If the bill did not prove controversial he hoped to get it through before the summer recess.

LAW OF PROPERTY.

GOVERNMENT BILL THROUGH COMMITTEE.

The Standing Committee of the House of Commons, which has been considering the Government Bill to amend certain enactments relating to the law of property, on Tuesday concluded its deliberations, and the measure was ordered to be reported to the House for third reading.

Some discussion took place on a new clause proposed by Sir Henry Cautley, providing that the registration of any instrument of assurance, or of a land charge (other than a local land charge), where the whole of the land affected is in Yorkshire shall be effected at the appropriate Yorkshire registry or registries of deeds, and not in London. He claimed that this proposal would immensely simplify the transfer of every kind of land in Yorkshire.

Sir Thomas Inskip (Solicitor-General) said the amendment, which sought to increase a Yorkshire privilege, would not achieve the very laudable object of avoiding a double search in the land registries. On the contrary, there were cases in which there might have to be a fourfold search—a search in each of the three registers of the different Ridings of Yorkshire, as well as in the London Register. So excellent was the London arrangement that at the cost of a telephone message, or of a telegram, it was possible to ascertain at once whether there was any entry in the register affecting any piece of land. Nobody need go to London and nobody need pay excessive fees. All that was necessary was to write a letter and get a certificate.

The proposed clause was rejected by twenty votes to three.

JUVENILE COURTS IN SCOTLAND.

Mr. Westwood (Peebles and Southern, Lab.) asked leave to introduce a Bill to provide for the appointment of women justices of the peace to act as assessors in juvenile courts in Scottish burghs. He said that the principle of the Bill was accepted by the House in 1920 in its application to juvenile courts in the Metropolis. The Scottish magistrates, in nominating the panel of women assessors, would have regard to their experience in dealing with the problem of juvenile delinquency and the training of young people. The measure was supported by all parties, and its object was to do what was possible to bring back to the paths of rectitude any juveniles in Scotland who went astray.

Leave was given, and the Bill was read the first time.

EVASION OF TAXES.

Mr. McNeill, replying to Mr. Windsor (Bethnal Green, N.E., Lab.), who asked whether the attention of the Chancellor of the Exchequer had been drawn to the action of landed proprietors in turning their estates into companies, and whether, seeing that such companies would result in a loss of revenue to the country in income-tax and death duties, it was proposed to take any action to prevent such loss, and to Mr. Robinson (Elland, Lab.), who asked a similar question, said the attention of the Chancellor had been drawn to cases of the type alluded to. The effect of such action on the revenue would be carefully watched.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert Valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-à-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 5%. Next London Stock Exchange Settlement. Thursday, 10th June 1926.

	Middle Price 19th May	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 2½%	56½	4 9 0	—
War Loan 5% 1929-47	100$\frac{7}{16}$	4 19 6	4 18 6
War Loan 4½% 1925-47	94½	4 15 0	4 18 0
War Loan 4% (Tax free) 1929-47 ..	100½	4 0 0	3 19 0
War Loan 3½% 1st March 1928 ..	98½	3 11 6	4 18 0
Funding 4% Loan 1960-90	87⅛	4 11 6	4 12 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years ..	93	4 6 0	4 8 0
Conversion 4½% Loan 1940-44	97½	4 12 6	4 17 0
Conversion 3½% Loan 1961	76$\frac{3}{16}$	4 12 0	—
Local Loans 3% Stock 1921 or after ..	64⅜	4 13 0	—
Bank Stock	247	4 17 0	—
India 4½% 1950-55	92½	4 17 0	4 19 6
India 3½%	73½	4 15 6	—
India 3%	61¼	4 17 0	—
Sudan 4½% 1939-73	92½	4 17 0	4 19 0
Sudan 4% 1974	85	4 14 0	4 17 6
Transvaal Government 3% Guaranteed 1923-53 (Estimated life 19 years) ..	79½	3 15 0	4 12 6
Colonial Securities.			
Canada 3% 1938	83½	3 12 6	4 18 0
Cape of Good Hope 4% 1916-36 ..	91½	4 8 0	5 1 6
Cape of Good Hope 3½% 1929-49 ..	79½	4 8 0	5 1 0
Commonwealth of Australia 5% 1945-75	102	4 18 0	4 19 0
Gold Coast 4½% 1956	94½	4 15 0	4 18 6
Jamaica 4½% 1941-71	92½	4 17 0	4 17 0
Natal 4% 1937	91½	4 8 0	4 19 6
New South Wales 4½% 1935-45 ..	91½	4 18 6	5 3 6
New South Wales 5% 1945-65.. ..	97½xd	5 3 6	5 3 0
New Zealand 4½% 1945	94½	4 15 0	5 0 0
New Zealand 4% 1929	96½	4 3 0	5 11 0
Queensland 3½% 1945	77	4 11 0	5 8 6
South Africa 4% 1943-63	87½	4 14 0	4 17 0
S. Australia 3½% 1926-36	86½	4 1 0	5 7 0
Tasmania 3½% 1920-40	83½	4 3 6	5 3 0
Victoria 4% 1940-60	89½	4 17 0	5 0 6
W. Australia 4½% 1935-65	90½	4 19 6	5 2 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	62¾	4 16 0	—
Bristol 3½% 1925-65	75½	4 13 0	5 0 0
Cardiff 3½% 1935	88½	3 19 6	5 1 6
Croydon 3% 1940-60	67½	4 9 0	5 1 0
Glasgow 2½% 1925-40	76xd	3 6 0	4 16 0
Hull 3½% 1925-55	75½	4 13 0	5 1 6
Liverpool 3½% on or after 1942 at option of Corpn.	72½	4 16 6	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	51⅞xd	4 16 6	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63½xd	4 14 6	—
Manchester 3% on or after 1941 ..	62½	4 16 0	—
Metropolitan Water Board 3% 'A' 1963-2003	63½	4 14 0	4 15 6
Metropolitan Water Board 3% 'B' 1934-2003	64½	4 13 6	4 15 6
Middlesex C.C. 3½% 1927-47	79½	4 7 6	5 0 6
Newcastle 3½% irredeemable	73½	4 15 6	—
Nottingham 3% irredeemable	61½	4 18 0	—
Plymouth 3% 1920-60	67½	4 9 6	5 0 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture ..	82	4 17 6	—
Gt. Western Rly. 5% Rent Charge ..	98½	5 1 6	—
Gt. Western Rly. 5% Preference ..	95½	5 5 0	—
L. North Eastern Rly. 4% Debenture ..	79	5 1 0	—
L. North Eastern Rly. 4% Guaranteed	75	5 7 0	—
L. North Eastern Rly. 4% 1st Preference	72½	5 10 0	—
L. Mid. & Scot. Rly. 4% Debenture ..	82	4 17 6	—
L. Mid. & Scot. Rly. 4% Guaranteed ..	79	5 1 0	—
L. Mid. & Scot. Rly. 4% Preference ..	75½	5 6 0	—
Southern Railway 4% Debenture ..	82	4 17 6	—
Southern Railway 5% Guaranteed ..	98½	5 1 6	—
Southern Railway 5% Preference ..	94½	5 6 0	—